

Chapter 308

1993 EDITION

Assessment of Property for Taxation

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GENERAL PROVISIONS

308.005 "Assessor" includes deputy. As used in ORS 308.055, 308.130, 308.210, 308.215, 308.231 to 308.235, 308.240 to 308.250, 308.270, 308.290, 308.295 or 308.325, "assessor" includes the deputy of the assessor. [Amended by 1979 c.689 §25; 1981 c.804 §28]

308.007 Definitions. As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise, for purposes of property taxation, "tax year" or "fiscal year" means a period of 12 months beginning on July 1. [1977 c.461 §1; 1991 c.459 §82]

308.010 Qualification for registered appraisers. (1) A registered appraiser shall be one who has successfully qualified and is employed pursuant to county civil service or state merit system requirements, or currently certified by the Personnel Division as having successfully passed an examination for Property Appraiser I or analogous merit system classification prepared by the Personnel Division and conducted and graded by the division or the appropriate county civil service body. Said examination shall be approved by a standing five-member committee of the Oregon State Association of County Assessors selected by said association for that purpose. In no event shall the qualifications for Property Appraiser I be less than those applicable to state appraisal personnel of similar classification. The Department of Revenue may revoke a registration of an appraiser for fraud or deceit in appraising or in the securing of a certificate or for incompetence.

(2) Any person who is a registered appraiser shall upon application be given a written certificate thereof by the particular civil service body that designated the necessary requirements or conducted the particular examination for the applicant.

(3) The Personnel Division shall set education and experience requirements and formulate appropriate tests for the positions of Property Appraiser II and Property Appraiser III which positions shall have the basic requirement of being a Property Appraiser I.

(4)(a) Each person who is registered as an appraiser under this section, under rules adopted by the department, shall participate in a continuing education program that increases technical competency. The education programs shall include any of the following:

(A) Basic mass appraisal and advanced mass appraisal.

(B) Residential, rural, special assessment, commercial or light-industrial appraisal.

(C) Property tax exemptions.

(D) Personal property appraisal.

(E) Ratio analysis.

(F) Computer applications.

(b) The department shall determine the hourly value to be assigned to each education program and shall by rule fix the number of hours that each person must have completed prior to the filing date indicated under paragraph (c) of this subsection.

(c) Prior to January 1, 1992, and prior to January 1 of each year thereafter, each person registered as an appraiser under this section shall submit evidence satisfactory to the department that the person has completed continuing education requirements in accordance with rules adopted by the department under this subsection.

(d) If the person does not submit the evidence required under paragraph (c) of this subsection, the department shall revoke the registration.

(e) The department may adopt conditions under which continuing education requirements may be waived. However, continuing education requirements may not be waived by the department for more than three consecutive years except for military service, retirement, disability, absence from the state or for other instances of individual hardship as determined by the department. [1955 c.575 §3; 1961 c.604 §1; 1971 c.695 §7; 1973 c.236 §1; 1981 c.126 §5; 1989 c.796 §25; 1991 c.5 §21]

308.015 Alternate qualifications for appraisers. (1) Any person who lacks the education and experience requirements for becoming a registered Property Appraiser I may become a registered Property Appraiser I if the person:

(a) First passes a general knowledge examination prepared by the Personnel Division, and conducted and graded by the division or the appropriate county civil service body which examination shall test the applicant's competence and aptitudes to become a registered appraiser;

(b) Then fulfills the requirements of a training course set by the department, which training course shall not exceed two years in duration; and

(c) After completion of the course, receives a passing grade on the written examination for Property Appraiser I.

(2) Any person engaged in the training course referred to in subsection (1)(b) of this section shall be designated as an Appraiser Trainee. No person may be employed by any county in the position of Appraiser Trainee for more than two years. [1973 c.236 §3; 1975 c.780 §3; 1991 c.5 §22]

308.020 Appeal of large amounts of value; effect on computation of tax. (1) If any property value is appealed to the De-

partment of Revenue or to any court of competent jurisdiction before the assessment and tax roll is certified to the tax collector, and the dollar difference between the total value asserted by the taxpayer and the total value asserted by the opposing party exceeds one-fourth of one percent (.0025) of the total assessed value in the county, the assessor shall enter on the roll only that portion of the total value which is not in controversy for purposes of computing and extending the tax upon the tax roll under ORS 310.090 to 310.130.

(2)(a) If any property value is appealed to the Department of Revenue or any court of competent jurisdiction after the assessment and tax roll is certified to the tax collector, and the dollar difference between the total value asserted by the taxpayer and the total value asserted by the opposing party exceeds one-tenth of one percent (.0010) of the total assessed value in the county for the tax year being appealed, except as provided in paragraph (b) of this subsection, for tax years occurring after the initial tax year and during the appeal period:

(A) The assessor shall enter on the roll the portion of the total value for the initial tax year which is not in controversy for purposes of computing and extending the tax roll under ORS 310.090 to 310.130; and

(B) The board of equalization shall consider the value to be under appeal notwithstanding that no subsequent appeal is actually filed. Physical additions or reductions in value after July 1 of the initial year shall be entered on the assessment roll as otherwise provided by law.

(b)(A) If, for any tax year occurring during the appeal period, the taxpayer elects against an automatic appeal as provided under this subsection, then paragraph (a) of this subsection shall not apply to the tax year for which the election is made. An election under this paragraph shall be made within the time and in the manner provided in rules that the department shall adopt.

(B) Nothing in this paragraph shall be construed to prevent an appeal as otherwise provided by law by the taxpayer of the property value for the tax year that is the subject of the election. However, if such an appeal occurs and meets the criteria of paragraph (a) of this subsection, the tax year of that appeal shall be considered an initial tax year for purposes of this subsection.

(c) As used in this subsection:

(A) "Final order" means an appealable order of the director of the department or, if an appeal is taken, a final order of the Oregon Tax Court or Oregon Supreme Court.

(B) "Initial tax year" means a tax year for which an appeal of property value is actually filed and the appeal meets the criteria described in paragraph (a) of this subsection.

(C) "Tax year occurring during the appeal period" means any tax year, after the initial tax year, in which the assessment and tax roll is certified to the tax collector either before the final order in appeal of value for the initial tax year is entered or before the expiration of the appeal period. "Tax year occurring during the appeal period" does not include a tax year for which an election is made under paragraph (b) of this subsection. [1973 c.345 §2; 1989 c.267 §1; 1991 c.459 §83; 1993 c.650 §1]

308.025 Change in special assessment classification; notice of possible tax liability. (1) Where any property has been granted special assessment for the purposes of property taxation under any of the special assessment laws listed in subsection (2) of this section, and the owner or other qualified person applies for a change in the classification from under one special assessment law to another, the public official or agency responsible for the administrative acts necessary to change the property to its requested new classification, with the assistance of any public official or agency that would be required to compute any additional taxes or penalty resulting from the change in classification, shall first send to the applicant by certified mail a notice that taxes or a penalty might be owing and due by reason of the change in classification, and that the applicant will have 30 days after mailing of the notice within which to withdraw the application, if the applicant so desires. The applicant shall have 30 days thereafter within which to withdraw the application, by giving written notice to the public official or agency that sent the notice, and no change in classification shall thereafter be made. If no such notice of withdrawal is given by the applicant, the application shall be acted upon and the change in classification made, as otherwise provided by law.

(2) The provisions of subsection (1) of this section shall apply with respect to the following special assessment laws:

(a) ORS 215.203, 215.213, 215.283, 215.284, 308.345 to 308.373, 308.375, 308.380 and 308.387 to 308.403 (relating to special assessment at value for farm use).

(b) ORS 321.358, 321.359 and 321.362 (relating to special assessment as designated forestland in western Oregon).

(c) ORS 321.805 to 321.825 (relating to special assessment as designated forestland in eastern Oregon).

(d) ORS 321.705 to 321.765 (relating to classification as western Oregon small tract optional forestland).

(e) ORS 308.670 to 308.685 (relating to special assessment as single-family residence).

(f) ORS 308.740 to 308.790 (relating to classification as open space land).

(g) ORS 358.475 to 358.545 (relating to classification as historic property).

(h) ORS 308.792 to 308.803 (relating to designation as riparian land). [1977 c.884 §29; 1977 c.892 §54; 1981 c.720 §14; 1983 c.826 §20; 1991 c.459 §84]

308.027 Standards for computer assisted property valuation methods. The Department of Revenue, after consultation with a standing committee of the Oregon State Association of County Assessors selected for that purpose, shall adopt by rule standards for use of computer assisted property valuation methods. The rules of the department shall:

(1) Provide for use of computerized valuation methods.

(2) Establish standards for performance based on data quality.

(3) Require review by the department to assure compliance with performance standards. [1983 c.471 §1]

308.030 Penalty for failure to file certain statements within time limits; notice; waiver of penalty. (1) Each person, company, corporation or association required by ORS 308.505 to 308.660, 308.705 to 308.730 or 308.805 to 308.820 to file a statement with the Department of Revenue, who or which has not filed a statement within the time fixed for filing a statement or as extended, is delinquent.

(2) A delinquent taxpayer is subject to a penalty of \$10 for each \$1,000 (or fraction thereof) of assessed value of the property as placed on the assessment roll of the department for the year of delinquency; except that for a delinquent taxpayer required to file a statement under ORS 308.705 to 308.730 or 308.805 to 308.820, the penalty shall be based upon the assessed value of such property of the taxpayer as would have been placed upon the assessment roll of the department if such property were subject to ad valorem taxation. No penalty shall be less than \$10 or more than \$5,000.

(3) The department shall send any delinquent taxpayer against whom a penalty is imposed under this section a notice of its intention to impose the penalty, by mailing a notice to the taxpayer at the last-known address shown on the records of the depart-

ment. The notice shall contain the amount of the penalty and the basis for its imposition.

(4) If a delinquency penalty is imposed under this section, the director, upon application filed by the taxpayer with the department during the period in which the director reviews the assessment roll of the department for the year of delinquency, may waive the penalty upon a showing that by reason of good and sufficient cause, the filing of the statement could not be made as otherwise required by law. The determination of the director shall be final, and no appeal may be taken from the determination.

(5) Upon completion of the review of the assessment roll of the department by the director, the department shall note on the assessment roll the name of each delinquent taxpayer, if not otherwise on the roll, and after the name the dollar amount of the penalty imposed under this section which was not waived by the director under subsection (4) of this section. The amount of penalty shall constitute a lien as of July 1 of the year of imposition on all real and personal property of the delinquent taxpayer in the state.

(6) Any penalty collected under this section shall be deposited in the unsegregated tax collections account of the counties in which the property of the taxpayer is located. [1977 c.884 §13; 1981 c.804 §29; 1991 c.459 §85]

COUNTY ASSESSOR

308.050 Assessor's annual report on property appraisal program. To aid the county court or board of county commissioners and the Department of Revenue in ascertaining whether a county assessor is maintaining a county's appraisal program, the county assessor must present, with the annual ratio study required by ORS 309.200, a written report as to the current status of the overall program of property appraisals in the county, specifying what property was reappraised in the past year and what is to be reappraised in the current year. [1967 c.316 §2 (2); 1981 c.804 §30; 1989 c.796 §16; 1991 c.459 §86]

308.055 Special assessor appointed if assessor fails to act. If the assessor fails to commence or continuously and vigorously prosecute the making of the assessment in the manner provided by law, the county court or board of county commissioners may summarily appoint a special assessor. The special assessor shall qualify in the same manner as the assessor. The special assessor shall have all the duties, rights, privileges and emoluments of the assessor in making the assessment for the current year. The acts of the special assessor shall have the same

effect as if they had been done by the assessor. [Amended by 1981 c.804 §31]

308.057 Continuing education of county assessors required; effect of failure to comply; appointment of special assessor. (1) A county assessor must participate in the continuing education described under ORS 308.010 and in addition participate in continuing education that includes management and assessment procedures. Proof of completion shall be filed with the department prior to January 1, 1992, and January 1 of each year thereafter in accordance with rules adopted by the department.

(2) If the county assessor does not complete the continuing education as required under rules adopted by the department and submit evidence satisfactory to the department, the department may recommend to the county governing body that the county governing body appoint a special assessor as provided under ORS 308.055. [1989 c.796 §27]

308.059 Qualifications of managerial employees of assessor. Any person who is employed in the office of the county assessor in a management position must meet the qualifications as described by rule of the Department of Revenue. [1989 c.796 §28]

308.060 [Amended by 1955 c.575 §4; repealed by 1967 c.316 §3]

308.061 Action by department when appraisals not conducted as required by law; notice to assessor; duty of county governing body; reimbursement of department. (1) If the Department of Revenue determines that appraisals in any county are not being made as provided by law, to meet the requirements of real market or assessed value and under a program which will insure compliance with ORS 308.234, it shall make a written report to the county court or board of county commissioners of the county, describing the provisions of law which are not being followed and recommending specific measures to be taken by the county court or board and the assessor to cure the deficiencies noted. Notification to the county court or board in writing of any deficiency must be made prior to February 1 of each year.

(2) If the department thereafter discovers that any measure or measures are not being taken as recommended under subsection (1) of this section, and that as a result, in the department's opinion, appraisals in the county are not being made as provided by law, including meeting the requirements of ORS 308.232 or 308.234, the department shall give 30 days' written notice to the assessor and to the county court or board of county commissioners of its intention to use the most practicable means to cure the deficiencies, including but not limited to the use of

its own employees and equipment or the use of fee appraisers. If within the 30-day period the assessor and the county court or board of county commissioners fail to take action to correct the deficiencies through the providing of funds and personnel, or by the submission of a plan acceptable to the department, the department shall proceed to cure the deficiencies. The county court or board of county commissioners shall bear the full expense of the necessary actions taken by the Department of Revenue for the benefit of the county, aided by the provisions of subsection (3) of this section.

(3) In the event that the department must perform services within or for a county pursuant to subsection (2) of this section, the costs shall be advanced from its Assessment and Taxation County Account, described in ORS 306.125, and that account shall be reimbursed for the sum of such costs from the county's share of the state's cigarette tax and liquor revenues, unless other provision is made by action of the county court or board. Reimbursement of the Assessment and Taxation County Account shall be made from time to time upon the order of the Secretary of State to the State Treasurer, based upon the Department of Revenue's certified, itemized statement of such costs to the Secretary of State. Copies shall be sent to the county court or board and to the county assessor. [1967 c.316 §2 (1), (3); 1977 c.193 §1; 1991 c.459 §87]

308.062 Action by department when appraisals not being conducted as provided by law through 1997; report to county governing body; notice to county governing body and assessor if deficiencies not cured following report; cure of deficiencies by department; reimbursement to department from county share of state shared funds. (1) ORS 308.061 shall not apply for the period beginning January 1, 1990, and ending December 31, 1997. For that period, subsections (2) to (4) of this section shall apply.

(2) If the Department of Revenue determines that appraisals in any county are not being made as provided by law, to meet the requirements of real market value and under a program which will insure compliance with ORS 308.027 and 308.234, or if the department determines that the county is not in compliance with a conference agreement or a plan developed at a conference as provided under section 4, chapter 796, Oregon Laws 1989, it shall make a written report to the county court or board of county commissioners of the county, describing the provisions of law which are not being followed and recommending specific measures to be taken

by the county court or board and the assessor to cure the deficiencies noted.

(3) If the department thereafter discovers that any measure or measures are not being taken as recommended under subsection (2) of this section, and that as a result, in the department's opinion, appraisals in the county are not being made as provided by law, including meeting the requirements of ORS 308.232 or 308.234, the department shall give 30 days' written notice to the assessor and to the county court or board of county commissioners of its intention to use the most practicable means to cure the deficiencies, including but not limited to the use of its own employees and equipment or the use of fee appraisers. If within the 30-day period the assessor and the county court or board of county commissioners fail to take action to correct the deficiencies through the providing of funds and personnel, or by the submission of a plan acceptable to the department, the department shall proceed to cure the deficiencies. The county court or board of county commissioners shall bear the full expense of the necessary actions taken by the Department of Revenue for the benefit of the county, aided by the provisions of subsection (4) of this section.

(4) In the event that the department must perform services within or for a county pursuant to subsection (3) of this section, the costs shall be advanced from its Assessment and Taxation County Account, described in ORS 306.125, and, except as otherwise provided by law, that account shall be reimbursed for the sum of such costs from the county's share of the state shared funds, unless other provision is made by action of the county court or board. Reimbursement of the Assessment and Taxation County Account shall be made from time to time upon the order of the Secretary of State to the State Treasurer, based upon the Department of Revenue's certified, itemized statement of such costs to the Secretary of State. Reimbursement shall be from an equal proportion of all state share funds required or permitted to be distributed to the county that are not otherwise dedicated as provided by law. If the county is a county for which expenditures for assessment and taxation have been certified under section 2, chapter 796, Oregon Laws 1989, the total reimbursement to the department shall not exceed the amount of the expenditures so certified. If the county is a county for which expenditures for assessment and taxation have not been certified under section 2, chapter 796, Oregon Laws 1989, the total reimbursement to the department shall not exceed the total amount of expenditures as determined for purposes of issuing the notice required under

subsection (4) of section 2, chapter 796, Oregon Laws 1989. Copies of the department's certified itemized statement of costs shall be sent to the county court or board and to the county assessor. [1989 c.796 §18; 1991 c.459 §175]

308.065 Administering of oaths by assessors and deputies. The county assessor and deputies may administer any oath authorized by law to be taken or made relating to the assessment and taxation of property, to the same extent as any other officers are authorized to administer oaths. [Amended by 1981 c.804 §32]

WHERE AND TO WHOM PROPERTY ASSESSED

308.105 Personal property. (1) Except as otherwise specifically provided, all personal property shall be assessed for taxation each year at its situs as of the day and hour of assessment prescribed by law.

(2) Personal property may be assessed in the name of the owner or of any person having possession or control thereof. Where two or more persons jointly are in possession or have control of any personal property, in trust or otherwise, it may be assessed to any one or all of such persons. [Amended by 1955 c.720 §1; 1961 c.683 §1]

308.110 [Repealed by 1957 c.342 §1 (308.256 enacted in lieu of 308.110 and 308.255)]

308.115 Improvements, minerals, coal, oil, gas or other severable interests owned separately from realty. (1) Whenever any mineral, coal, oil, gas or other severable interest in or part of real property is owned separately and apart from the rights and interests owned in the surface ground of the real property, such minerals, coal, oil, gas or other interest or parts shall be assessed and taxed as real or personal property in accordance with existing law in the name of the owner thereof, separately from the surface rights and interests in the real property and may be sold for taxes in the same manner and with the same effect as other interests in real property are sold for taxes.

(2) Similarly, whenever any building, structure, improvement, machinery, equipment or fixture is owned separately and apart from the land or real property whereon it stands or to which it is affixed, such building, structure, improvement, machinery, equipment or fixture shall be assessed and taxed in the name of the owner thereof. [Amended by 1979 c.689 §9]

308.120 Partnership property; liability of either partner for whole tax. Partners in mercantile or other business may be jointly taxed in their partnership name, or severally taxed for their individual shares for

all personal property employed in such business. If they are jointly taxed, either or any of such partners shall be liable for the whole tax.

308.125 Undivided interest; assessment; ownership of less than one forty-eighth interest. (1) An undivided interest in lands or lots, or other real property, or in personal property, may be assessed and taxed as such. Any person desiring to pay the tax on an undivided interest in any real property may do so by paying the tax collector a sum equal to such proportion of the entire taxes charged on the entire tract as the interest paid on bears to the whole.

(2) If an undivided interest in property is less than one forty-eighth of the entire interest in the property the interest need not be assessed or taxed to the owner of such undivided interest, and the assessor and tax collector may treat all such undivided interests as one interest which shall be listed as belonging to an unknown owner. Any number of owners of undivided interests which are listed as belonging to an unknown owner because of this subsection, may request the assessor and tax collector that notices concerning the property be sent to a specific person at a specific address. The assessor and tax collector shall honor such request, but if more than one request is made, only the one signed by the greater number of undivided interest holders shall be honored.

(3) Any person paying the taxes on property listed as belonging to an unknown owner because of subsection (2) of this section, shall have a right of contribution from the owners of the undivided interests on account of the taxes paid on the interests of the owners of the undivided interests. No refund of taxes may be granted under ORS 311.806 on the grounds of the payment of taxes on property of another. [Amended by 1973 c.803 §3]

308.130 Undivided estate of decedent; liability for whole tax; right of contribution. The undivided estate of any deceased person may be assessed to the heirs or devisees of such person, without designating them by name, until they have given notice to the assessor of the division of the estate, and the names of the several heirs or devisees. Each heir and devisee shall be liable for the whole of the tax, and shall have a right to recover from the other heirs and devisees their respective portions of the tax when paid.

308.135 Trustee or personal representative separately assessed; valuation of property held as representative. When any person is assessed as trustee, guardian, executor or administrator:

(1) A designation of the representative character shall be added to the name of the person.

(2) The assessment shall be entered in a separate line from the individual assessment of the person.

(3) The person shall be assessed for the real and personal property held by the person in the representative character in accordance with ORS 308.232. [Amended by 1981 c.804 §33]

308.140 [1983 c.307 §1; renumbered 223.317 in 1987]

308.145 [1983 c.307 §2; renumbered 223.322 in 1987]

308.150 [1983 c.307 §3; renumbered 223.327 in 1987]

308.165 [1983 c.259 §1; renumbered 223.132 in 1987]

308.170 [1983 c.259 §2; renumbered 223.878 in 1987]

ASSESSMENT ROLL; METHOD OF ASSESSMENT

308.205 Real market value defined. (1) Real market value of all property, real and personal, as the property exists on the date of assessment, means the minimum amount in cash which could reasonably be expected by an informed seller acting without compulsion from an informed buyer acting without compulsion, in an arm's-length transaction during the fiscal year.

(2) Real market value in all cases shall be determined by methods and procedures in accordance with rules adopted by the Department of Revenue and in accordance with the following:

(a) The minimum amount a typical seller would accept or the highest amount a typical buyer would offer which could reasonably be expected by a seller of property.

(b) An amount in cash shall be considered the equivalent of a financing method that is typical for a property.

(c) If the property has no immediate market value, its real market value is the amount of money that would justly compensate the owner for loss of the property.

(d) If the property is subject to governmental restriction as to use on the assessment date under applicable law or regulation, real market value shall not be based upon sales that reflect for the property a value that the property would have if the use of the property were not subject to the restriction unless adjustments in value are made reflecting the effect of the restrictions. [Amended by 1953 c.701 §2; 1955 c.691 §§1, 2; 1977 c.423 §2; 1981 c.804 §34; 1989 c.796 §30; 1991 c.459 §88; 1993 c.19 §6]

308.207 Computation of real market value for taxing or bonding limitations. (1) If the taxing or bonding power of any governmental unit is limited to a millage or percentage of the real market value of the

taxable property within the unit, the real market value shall be the real market value as reflected in the last certified assessment roll plus the values required by ORS 287.010 and 321.317 to be added on account of timber removed from the rolls.

(2) Changes in the boundary lines of a governmental unit shall be taken into account in computing its real market value for purposes of subsection (1) of this section even though such boundary changes may not be included on the latest assessment roll.

(3) As used in this section, "governmental unit" includes the state, counties, cities, municipal corporations, and all special districts having the power to levy taxes or issue bonds. [1963 c.9 §1; 1967 c.293 §22; 1981 c.804 §35; 1991 c.459 §89]

308.210 Assessing property; record as assessment roll; changes in ownership or description of real property and manufactured structures assessed as personal property. (1) The assessor shall proceed each year to assess the value of all taxable property within the county, except property that by law is to be otherwise assessed. The assessor shall maintain a full and complete record of the assessment of the taxable property for each year on July 1 of such year, at 1:00 a.m. in the manner set forth in ORS 308.215. Such record shall constitute the assessment roll of the county for the year.

(2) Except as provided in subsections (3) and (4) of this section, the ownership and description of all real property and manufactured structures assessed as personal property shall be shown on the assessment roll as of July 1 of such year or as it may subsequently be changed by divisions, transfers or other recorded changes. This subsection is intended to permit the assessor to reflect on the assessment roll the divisions of property or the combining of properties after July 1 so as to reflect the changes in the ownership of that property and to keep current the descriptions of property. The assessor shall also have authority to change the ownership of record after July 1 of a given year so that the assessment roll will reflect as nearly as possible the current ownership of that property.

(3) The assessor shall not indicate any changes, divisions or transfers of properties which occurred before, on or after July 1 as a result of the division of a larger parcel of land until all ad valorem taxes, fees and other charges placed upon the tax roll on the entire parcel of property that have been certified for collection under ORS 311.105 and 311.110 have been paid. However, if the owner of one of the portions of the larger property is a public body only the change,

division or transfer of that portion shall be recognized.

(4) Nothing in subsection (2) of this section shall be construed to require the assessor to reflect on the assessment roll any combining of properties unless all ad valorem taxes, fees or other charges charged to the tax accounts to be combined that have become delinquent have been paid. However, if the owner of the affected property is a public body, this subsection shall not apply.

(5) The assessor shall notify the planning director of a city of all divisions of land within the corporate limits of the city and the planning director of a county of all divisions of land outside the corporate limits of all cities and within the county, including, but not limited to, divisions of land by lien foreclosure, divisions of land pursuant to court order and subdivisions within 30 days after the date the change in the tax lot lines was processed by the assessor. The requirements of this subsection do not apply to divisions for assessment purposes only.

(6) As used in this section, "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. [Amended by 1957 c.324 §1; 1969 c.454 §1; 1977 c.718 §1; 1981 c.632 §2; 1983 c.473 §1; 1983 c.718 §1; 1991 c.459 §90; 1991 c.763 §27; 1993 c.6 §4]

308.212 Requirement for property owner to file address. (1) Any person who owns real property located in any county shall notify the county assessor for the county where the property is located of that owner's current address and, within 30 days of the change, shall notify the assessor of any change of address.

(2) A notice required under subsection (1) of this section does not meet the requirements of this section unless the notice is in writing and:

(a) For an individual, the notice contains the residence address of the person.

(b) For any other person, the notice contains the name and address of persons upon whom process may be served.

(3) The county assessor of each county shall maintain records showing the information required to be submitted to the assessor under this section. The assessor shall note any property owner's change of address on the tax rolls.

(4) Subsection (1) of this section does not apply to any government body or government agency. [1981 c.153 §49]

Note: 308.212 was enacted into law by the Legislative Assembly but was not added to or made a part of

ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.215 Contents of assessment roll. The assessor shall prepare the assessment roll in the following form:

(1) Real property shall be listed in sequence by account number or by code area and account numbers. For each parcel of real property, the assessor shall set down in the assessment roll according to the best information the assessor can obtain:

(a) The name of the owner or owners and, if the assessor or tax collector is instructed in writing by the owner or owners to send statements and notices relating to taxation to an agent or representative, the name of such agent or representative.

(b) A description as required by ORS 308.240 with its code area and account numbers.

(c) The property class, in accordance with the classes established by rule by the Department of Revenue.

(d) The number of acres and parts of an acre, as nearly as can be ascertained, unless it is divided into blocks and lots.

(e) The assessed value and real market value of the land, excluding all buildings, structures, improvements and timber thereon.

(f) The assessed value and real market value of all buildings, structures and improvements thereon.

(g) The assessed value and real market value of each unit together with its percentage of undivided interest in the common elements of property subject to ORS 100.005 to 100.910 stating separately the assessed value and real market value of the land, buildings, structures and improvements of each unit.

(h) For each parcel of real property granted an exemption under ORS 307.250 to 307.300, the real market value so exempt.

(i) The total assessed value and real market value of each parcel of real property assessed.

(2) For personal property, the assessor shall set down separately in the assessment roll, according to the best information the assessor can obtain:

(a) The names, including assumed business names, if any, of all persons, whether individuals, partnerships or corporations, or other owner, owning or having possession or control of taxable personal property on July 1, at 1:00 a.m. If it is a partnership, the names of two general partners and the total number thereof.

(b) The assessed value and real market value of the personal property assessed, with a separate value for each category of personal property, if any. The Department of Revenue, by rule, may establish such categories as appear useful or necessary for good tax administration.

(c) The number of the code area assigned by the assessor covering the situs of the property on July 1.

(d) The total assessed and real market value for the property.

(3) The listing of manufactured structures on the assessment roll, whether as real or personal property, shall be done in a distinctive manner so that manufactured structures may be readily distinguished from other property.

(4) In lieu of listing manufactured structures on the assessment roll as real or personal property, the assessor may list manufactured structures in a separate section of the assessment roll. In any county where such separate listing of manufactured structures is made the manufactured structures assessed as real property under ORS 308.875 shall bear a distinctive designation so that it can be identified with the real property upon which it is located. In like manner the real property upon which the manufactured structure is situated shall bear a distinctive designation so that it can be identified with the manufactured structure. Where a homestead exemption is granted to a manufactured structure assessed as real property under ORS 308.875, which manufactured structure is listed on a portion of the assessment roll separate from the real property, the exempt amount shall apply first to the value of the manufactured structure, and any remainder shall apply to the parcel of land upon which it is situated.

(5) The Department of Revenue may by rule require that the assessment roll include information in addition to that required by subsections (1) and (2) of this section. [Amended by 1957 c.324 §2; 1963 c.270 §1; 1963 c.541 §43; 1965 c.344 §1; 1967 c.568 §1; 1971 c.529 §13; 1971 c.568 §1; 1971 c.747 §16; 1977 c.718 §6; 1979 c.692 §3; 1981 c.804 §36; 1983 s.s. c.5 §3; 1985 c.350 §1; 1985 c.613 §7; 1991 c.459 §91]

308.217 Form of assessment and tax rolls; obtaining descriptions of property.

(1) For purposes of assessment and taxation, the assessment roll and the tax roll of each county shall be deemed one continuous record. They shall be made up in regular and orderly form, with appropriate headings for assessment of properties, extensions of tax levies, for payments, foreclosures, redemptions, issuance of deeds and other entries as contemplated by law. The rolls shall be in an acceptable form of record keeping, approved

by the Department of Revenue, which may be, but is not limited to, bound volumes, numbered loose-leaf sheets, systematic punch cards or magnetic tape. Both rolls may be prepared as continuing rolls, covering two or more years, but all proceedings in the assessment and taxation of property for each year shall be separately exhibited therein.

(2) The records constituting the assessment roll may be combined with or separated from the records constituting the tax roll. The records constituting each roll may be divided, for convenience, between the assessor's office and the tax collector's office, with or without duplication in whole or in part in either office.

(3) The owner of any real property shall, upon request of the assessor, furnish to the assessor a description of the property from which its area can be computed accurately and the location and boundary lines made certain. [1965 c.344 §3 (308.217, 308.219 and 308.221 enacted in lieu of 308.220)]

308.219 Assessment and tax rolls; preparation; contents; availability to public and board of ratio review. If the assessment and tax rolls do not constitute a written record which can be read by, and is available to the public, for each tax year, the system of records shall include the following:

(1) At the same time as the certification required under ORS 311.105 the assessor shall print out the entire assessment and tax roll, including the roll as prepared on September 20, with all corrections, changes and additions to the roll which have occurred to the date the roll is delivered to the tax collector pursuant to ORS 311.115.

(2)(a) The assessment and tax roll shall be printed out in full, as of the June 30 which is the end of the fiscal year for which the roll was prepared. As of each June 30, thereafter, the tax collector shall print out those accounts not collected in full or canceled as of the preceding June 30. The printout shall contain a record of all payments, corrections, additions and changes which have occurred since the date of the last printing of the roll.

(b) A printed copy of the June 30 tax roll shall be made available to the county board of ratio review no later than July 15.

(3) The printouts required by subsection (2) of this section shall constitute the roll or part thereof as of the date of the particular printout. Such printouts and the source documents which are the basis for the roll shall be retained as otherwise provided by law. The material which is not available to and cannot be read by the general public and which otherwise constitutes the roll up to

the date of the printout may be destroyed one year after the printout is made.

(4) Additional printouts shall be made by the assessor or tax collector as the assessor or tax collector deems necessary for proper administration of the tax laws.

(5) The Department of Revenue may by rule require that the printouts include information in addition to that required by subsections (1) and (2) of this section.

(6) Preparation of a microfiche record of the roll shall constitute a printout. [1965 c.344 §4 (308.217, 308.219 and 308.221 enacted in lieu of 308.220); 1975 c.780 §4; 1991 c.459 §92]

308.220 [Amended by 1957 c.324 §3; repealed by 1965 c.344 §2 (308.217, 308.219 and 308.221 enacted in lieu of 308.220)]

308.221 Code area system; consolidated tax rate; tax rates by category. Each year, the county assessor shall establish a system of code areas, identified by code numbers, which shall represent all of the various combinations of taxing agencies as of July 1 of that year in which a piece of property was located in the county. The assessor shall compute a consolidated rate percent of levy for each code area and shall indicate on the assessment roll the code area number for each item of property assessed. In addition, the assessor shall compile in duplicate a list of all code areas and their numbers and identify for each area the names of each taxing agency in the area, the rate percent of levy of each agency and by category as described in ORS 310.150, the consolidated rate for the area. The list shall constitute a part of the certificate prepared under ORS 311.105, to be delivered to the county clerk and to the tax collector. [1965 c.344 §5 (308.217, 308.219 and 308.221 enacted in lieu of 308.220); 1981 c.804 §37; 1991 c.459 §93]

308.225 Boundary change or proposed boundary change; procedure. (1) In preparing the assessment roll in any year, a county assessor shall disregard changes or proposed changes described in subsections (3) and (4) of this section in the boundary lines of any taxing district levying ad valorem taxes if the description and map showing changes or proposed changes are not filed in final approved form, in accordance with and at the time required by subsection (2) of this section.

(2)(a) If a boundary change is made or proposed, the person, governing body, officer, administrative agency or court making the determination that the boundary change is final shall file with the county assessor and the Department of Revenue the legal description of the boundary change or proposed change and an accurate map showing the change or proposed change in final approved form, prior to the next March 31.

(b)(A) Except as is otherwise provided in subparagraph (B) of this paragraph the legal description of the boundary change shall consist of a series of courses in which the first course shall start at a point of beginning and the final course shall end at that point of beginning. Each course shall be identified by bearings and distances and, when available, refer to deed lines, deed corners and other monuments, or, in lieu of bearings and distances, be identified by reference to:

(i) Township, range, section or section subdivision lines of the U. S. Rectangular survey system.

(ii) Survey center line or right of way lines of public roads, streets or highways.

(iii) Ordinary high water or ordinary low water of tidal lands.

(iv) Right of way lines of railroads.

(v) Any line identified on the plat of any recorded subdivision defined in ORS 92.010.

(vi) Donation land claims.

(vii) Line of ordinary high water and line of ordinary low water of rivers and streams, as defined in ORS 274.005, or the thread of rivers and streams.

(B) In lieu of the requirements of subparagraph (A) of this paragraph, boundary change areas conforming to areas of the U. S. Rectangular survey may be described by township, section, quarter-section or quarter-quarter section, or if the areas conform to subdivision lots and blocks, may be described by lot and block description.

(c) A map shall be provided to the filing body by the county assessor or the department within 14 days after the filing body notifies the assessor and department that a boundary change is being proposed. The boundary line shall then be accurately entered thereon by the person, body, officer or agency making the filing.

(d) The description and map shall be filed in final approved form not later than March 31 prior to the tax year to which the change applies. Proposed boundary changes shall be certified to the county assessor and the department in the same manner as boundary changes. If the taxing district is located in more than one county, the description and map shall be filed with the assessor in each county and with the department within the time provided in this subsection.

(3) For purposes of this section, boundary change means the change that occurs in the boundaries of a district by reason of:

(a) The formation of a new district;

(b) The consolidation or merger of two or more districts or parts thereof;

(c) The annexation of territory by a district;

(d) The withdrawal of territory from a district; or

(e) The dissolution of a district.

(4) For the purposes of this section, a proposed change means a boundary change which has not become final or effective by March 31, but which is certain to become final or effective on or before July 1 of the same year.

(5) Each description and map filed under subsection (2) of this section shall be submitted to the Department of Revenue and approved or disapproved within 30 days of receipt.

(6) Within five days of its determination, the Department of Revenue shall mail to each county assessor with whom a filing has been made and to the filing body notice of its approval or disapproval under subsection (5) of this section. If disapproved, the department shall explain what steps must be taken to correct the description or map, and shall cooperate with the filing body in helping it meet the requirements of this section, and whenever possible, the filing date of March 31. Corrected descriptions and maps must then be resubmitted to the department, and approved, and filed with the assessor or assessors.

(7) The filing of the description and map under this section is for assessment and taxation purposes only and does not affect or relate to filing for any other purpose. [Amended by 1965 c.411 §1; 1969 c.151 §1; 1973 c.501 §1; 1975 c.595 §1; 1981 c.804 §38; 1983 c.426 §1; 1991 c.459 §94]

308.229 Forest homesite value; computation; when dwelling or homesite is used in conjunction with forest use; occupancy by operator, employee or retired operator. (1) Notwithstanding ORS 308.205, 308.232 or 308.235, a homesite that is used in conjunction with the activities customarily carried on in the management and operation of forestland held or used for the predominant purpose of growing and harvesting trees of a marketable species shall, for purposes of assessment, be valued under this section and not at its real market value as determined under ORS 308.205, 308.232 and 308.235.

(2) To determine forest homesite value for purposes of this section the maximum value of a forest homesite is: Real market value as provided in ORS 308.205 for the bare land of the total parcel and contiguous acres under same ownership divided by the number of acres in the total parcel and contiguous acres under the same ownership, plus \$4,000 or the depreciated replacement cost of land

improvements necessary to establish the forest homesite, whichever is less.

(3) For the purposes of establishing a forest homesite value, the value of one acre of land for each forest homesite, as determined in subsection (2) of this section shall be used.

(4) As used in this section:

(a) "Forestland" means forestland that is a parcel of land of more than 10 acres that has been zoned in the comprehensive plan for exclusive farm use, forest use or farm and forest use and that is, as of the assessment date for which value for the forest homesite is being determined:

(A) Land that has as its highest and best use the growing and harvesting of trees of a marketable species;

(B) Land that has been designated as forestland under ORS 321.257 to 321.381 or 321.805 to 321.825; or

(C) Land that has been classified under ORS 321.705 to 321.765.

(b) "Forest homesite" means the land, including all tangible improvements to the land and all intangible assets to the land, under and adjacent to a dwelling and other structures, if any, which are customarily provided in conjunction with the dwelling.

(5) For purposes of this section, the use of a dwelling "in conjunction with the activities customarily carried on in the management and operation of forestland" includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the forestland, is occupied by an employee of the owner of forestland who is employed in connection with the forest operation or is occupied by a person who is involved in the forest operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the forest operation but:

(A) Whose principal source of income is derived from the harvest of timber from the forestland on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the forest operation, during the five consecutive tax years before the tax year in which engagement in the forest operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the forest operation ended. For purposes of this paragraph, "continuous" includes any period in which the dwelling is unoccupied due to health, vacation or other reason, if during the period

the dwelling is not leased or rented to another person. [1989 c.887 §10; 1991 c.459 §95; 1993 c.703 §3]

308.230 [Repealed by 1969 c.454 §2]

308.231 Only registered appraisers to appraise real property. Appraisals of real property shall be performed by an appraiser registered under ORS 308.010. [1955 c.575 §2; 1979 c.689 §11; 1991 c.5 §23; 1991 c.459 §96]

308.232 Property to be valued and assessed at 100 percent real market value. All real or personal property within each county shall be valued and assessed at 100 percent of its real market value. [1953 c.701 §2; 1959 c.519 §1; 1961 c.243 §1; 1967 c.293 §6; 1979 c.241 §33; 1981 c.804 §39; 1985 c.613 §8; 1991 c.459 §97]

308.233 Use of sales data for physical appraisal. (1) For purposes of making a physical appraisal of property for ad valorem property taxation, in arriving at the value level for the property, any sales data used shall be examined, analyzed, adjusted and otherwise utilized in such a manner that the value level determined for the property is substantially equivalent to the value level that would be determined if the sales data utilized was the same sales data, and was examined, analyzed, adjusted and otherwise utilized in the same manner as the sales data utilized in making the certified ratio study under ORS 309.200.

(2) The purpose of this section is to achieve equality and uniformity in assessed values between properties that are physically appraised and those that are not physically appraised, but subject to trending or indexing for the particular tax year. [1979 c.241 §51; 1989 c.330 §15; 1991 c.459 §98]

Note: 308.233 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.234 Record of last appraisal; real property appraised at least once every six years. The county assessors shall preserve in their respective offices records to show when each parcel of real property was last appraised. Each parcel of real property shall be appraised at least once every six years to insure that equality of taxation according to law shall be secured. [1955 c.575 §1; 1967 c.105 §1; 1967 c.293 §8]

308.235 Valuation of land. (1) Taxable real property shall be assessed by a method which takes into consideration:

(a) The applicable land use plans, including current zoning and other governmental land use restrictions;

(b) The improvements on the land and in the surrounding country and also the use, earning power and usefulness of the im-

provements, and any rights or privileges attached thereto or connected therewith; and

(c) The quality of the soil, and the natural resources in, on or connected with the land, its conveniences to transportation lines, public roads and other local advantage of a similar or different kind.

(2) If land is situated within an irrigation, drainage, reclamation or other improvement district, the value of the land shall not be considered to be increased until the construction and improvement of the district have been completed to the point that water may be delivered to or removed from the land, as the case may be. [Amended by 1953 c.701 §2; 1957 c.324 §4; subsection (2) enacted as 1967 c.601 §12; 1969 c.601 §14; 1975 c.671 §1; 1981 c.804 §40]

308.236 Land and timber values to reflect presence of roads; roads not assessed; exception for certain timber roads. (1) The availability, usefulness and cost of using roads, including all roads of the owner of land or timber, and all roads which such owner has the right to use, shall be taken into consideration in determining the real market value of land, the immediate harvest value of timber in eastern Oregon as defined in ORS 321.430 (3) and the stumpage value of timber in western Oregon as defined in ORS 321.257.

(2) Farm or grazing land roads and forest roads themselves, except principal exterior timber access roads, shall not be appraised, valued or assessed and they shall not be classed as improvements under ORS 308.215. The underlying land upon which roads are constructed shall be assessed if it is otherwise subject to assessment.

(3)(a) As used in this section, "road" includes fills, ballast, bridges, culverts, drains, surfacing and other appurtenances of a like kind commonly associated with roads, but excludes railroads.

(b) "Principal exterior timber access roads" means those portions of high standard main-line private roads that provide access from a conversion center or public way to the exterior boundary of the principal forest area served by the road. A high standard main-line private road is a permanent road of two lanes or more which is paved, macadamized, or with fine-gravel surface which is permanently and continuously maintained. [1963 c.230 §2; 1977 c.892 §35; 1987 c.305 §7; 1989 c.1083 §8; 1991 c.459 §99]

308.237 [1961 c.695 §1; repealed by 1963 c.577 §11]

308.238 [1961 c.695 §2; repealed by 1963 c.577 §11]

308.239 [1965 c.622 §1; 1967 c.633 §1; renumbered 308.345]

308.240 Description of land; assessment to "unknown owners"; mistake or

omission in owner's name; error in description of property. (1) Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

(2) If the owner of any land is unknown, such land may be assessed to "unknown owner," or "unknown owners." If the property is correctly described, no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner. Where the name of the true owner, or the owner of record, of any parcel of real property is given, the assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in an action to enforce a contract to convey employing such description, a court with jurisdiction to grant equitable remedies would hold it to be good and sufficient.

(3) Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description and designation in all proceedings of assessment for taxation, levy and collection of taxes, foreclosure and sale for delinquent taxes or assessments, and in any other proceeding related to or connected with the taxation of such property. [Amended by 1957 c.324 §5; 1979 c.284 §135; 1993 c.19 §7]

308.242 Assessor's authority to change roll after September 20 limited; application to assessor for review of property value. (1) The assessor shall make no changes in the roll after September 20 of each year except such changes as are otherwise provided by law.

(2) Upon written application, made by an owner or by a person in whose name the property is assessed, to the county assessor within 10 days before the last date allowed for filing a petition for reduction of real market value under ORS 309.100 (1) or (2), the assessor may review the real market or assessed value of the property and may re-

commend to the board of equalization any reduction of the real market or assessed value or recommend to the board of ratio review any reduction of real market value placed upon the property as may be appropriate. Nothing in this section, including but not limited to the failure of the assessor to review the real market value of the property or to recommend its reduction to the board, shall affect the right of a taxpayer to appeal the real market value of the property under ORS 309.100 or other law. [1957 c.324 §7; 1981 c.804 §40a; 1983 s.s. c.5 §4; 1991 c.459 §100; 1993 c.270 §27]

Note: Section 28, chapter 270, Oregon Laws 1993, provides:

Sec. 28. The amendments to ORS 308.242 by section 27 of this Act first apply to deliberations of the boards of equalization and ratio review on or after January 1, 1994. [1993 c.270 §28]

308.245 Maps; taxpayers' index. (1) The assessor of each county shall maintain a set of maps upon which are outlined the boundaries of each land parcel subject to separate assessment within the county, with the parcel's tax lot or account number shown on the parcel. In addition, the assessor may show on the maps the code area boundaries and the assigned code area numbers.

(2) The assessor shall also make a diagram or drawing of all property within the county of the assessor submitted to the provisions of ORS 100.005 to 100.910, and shall note thereon the assigned account or tax lot number.

(3) The assessor shall maintain an index of the names of every taxpayer against whom any tax is charged in the county, in alphabetical order with reference to the first three letters of the surname of taxpayers who have surnames, and of the first names of any others. The index shall be indexed to the assessment rolls and the place therein where the assessment of such taxpayer is found.

(4) The maps and the index provided for in this section shall be public records. [Amended by 1963 c.541 §44; 1965 c.344 §7]

308.250 Valuation and assessment of personal property; cancellation of assessment and short form return in certain cases. (1) All personal property not exempt from ad valorem taxation shall be valued at 100 percent of its real market value, as of July 1, at 1:00 a.m. and shall be assessed at 100 percent of its real market value.

(2) If the total assessed value of all taxable personal property in any county of any taxpayer is less than \$3,000 in any tax year, the county assessor shall cancel the ad valorem tax assessment for that year.

(3) In any tax year or years following a tax year for which taxes are canceled under subsection (2) of this section, the taxpayer may meet the requirements of ORS 308.290

by filing, within the time required under ORS 308.290, a verified statement with the county assessor indicating that the total assessed value of all taxable personal property of the taxpayer in the county is less than \$3,000. The statement shall contain the name and address of the taxpayer, the information needed to identify the account and other pertinent information, but shall not be required to contain a listing or value of property or property additions or retirements. [Amended by 1953 c.349 §3; 1959 c.553 §1; 1965 c.429 §3; 1971 c.529 §34; 1971 c.610 §1; 1973 c.62 §1; 1979 c.529 §3; 1979 c.692 §4; 1981 c.804 §41; 1985 c.422 §1; 1985 c.613 §9; 1991 c.459 §101; 1993 c.813 §1]

Note: Section 3 (1) and (2), chapter 813, Oregon Laws 1993, provides:

Sec. 3. (1) Except as provided in subsection (2) of this section, the amendments to ORS 308.250 and 308.290 by sections 1 and 2 of this Act apply to tax years beginning on or after July 1, 1993.

(2) The use of a short form personal property tax return, as described under the amendments to ORS 308.250 by section 1 of this Act that create a new subsection (3), is first authorized for tax years beginning on or after July 1, 1994, based upon a cancellation of taxes for the tax year 1993-1994. [1993 c.813 §3 (1), (2)]

308.253 Manufactured structure transfer; dealer notice to assessor. Immediately upon sale or other transfer of a manufactured structure, the manufactured structure dealer shall notify the county assessor of the appropriate county of the sale or other transfer. [1985 c.416 §2; 1991 c.459 §102]

308.255 [Amended by 1955 c.735 §7; repealed by 1957 c.342 §1 (308.256 enacted in lieu of 308.110 and 308.255)]

308.256 Assessment, taxation and exemption of watercraft and materials of shipyards, ship repair facilities and offshore drilling rigs. The rules for assessment, taxation and exemption of watercraft are as follows:

(1) Watercraft of water transportation companies shall be assessed as provided in ORS 308.505 to 308.660.

(2) Floating reduction and processing plants shall be assessed as provided in ORS 308.260.

(3) The following watercraft shall be exempt from taxation:

(a) Watercraft not owned or operated by water transportation companies as defined in ORS 308.515 and which are customarily engaged in the transportation of persons or property for hire wholly outside the boundaries of this state.

(b) Watercraft owned or operated by water transportation companies as defined in ORS 308.515 and not assessed by the Department of Revenue, which are customarily engaged in the transportation of persons or property for hire wholly or in part outside the boundaries of this state. The exemption under this paragraph does not apply to

watercraft that engage in the transportation for hire of persons on offshore trips that originate and terminate at the same port, and that have a valid marine document issued by the United States Coast Guard or any other federal agency that succeeds to the duty of issuing marine documents, which craft shall be subject to registration by the State Marine Board.

(c) The real market value of the property of a water transportation company as defined in ORS 308.515 which is not subject to assessment by the Department of Revenue under the provisions of ORS 308.550 (3).

(4)(a) Watercraft over 16 feet in length in the process of original construction, or undergoing major remodeling, renovation, conversion, reconversion or repairs on July 1 shall be exempt from taxation. For the purposes of this subsection, the term "major" shall include all remodeling, renovation, conversion, reconversion or repairs to a watercraft in which the expenditures for parts, materials, labor and accessory services exceed 10 percent of the market value of such watercraft immediately prior to such remodeling, renovation, conversion, reconversion or repairs.

(b) Watercraft subject to assessment by the Department of Revenue under ORS 308.505 to 308.660 shall be exempt under paragraph (a) of this subsection only if on or before July 5 of the year for which exemption is claimed, the owner or operator files with the department sufficient documentary evidence that the property qualifies for the exemption.

(c) The owner or operator of watercraft subject to local assessment shall file the documentary evidence required under paragraph (b) of this subsection with the county assessor on or before August 1 of the year for which exemption is claimed.

(5) All other watercraft not otherwise specifically exempt from taxation nor licensed in lieu thereof shall be assessed in the county in which they are customarily moored when not in service or if there is no customary place of moorage in the county in which their owner or owners reside or if neither situs applies then in the county in which any one of the owners maintains a place of business.

(6) Watercraft falling under subsection (5) of this section shall be assessed at real market value, except as follows:

(a) Ships and vessels whose home ports are in the State of Oregon and which ply the high seas or between the high seas and inland water ports or termini shall be assessed at four percent of the real market value thereof.

(b) Vessels which are self-propelled, offshore oil drilling rigs whose home ports are in the State of Oregon shall be assessed at four percent of the real market value thereof.

(c) All other ships and vessels whose home ports are in the State of Oregon shall be assessed at 40 percent of the real market value thereof.

(7) The assessor shall cancel the assessment in whole or proportionate part on all parts and materials in the inventory of shipyards and ship repair facilities as of July 1 of the year of assessment, but only upon receipt prior to August 1 of the year of assessment of sufficient documentary proof that prior to August 1 of the year of assessment such parts or materials so assessed were physically attached to or incorporated in watercraft undergoing major remodeling, renovation, conversion, reconversion or repairs as defined in subsection (4) of this section, within the boundaries of this state. [1957 c.342 §2 (enacted in lieu of 308.110 and 308.255); 1965 c.431 §1; 1967 c.293 §32; 1987 c.347 §1; 1991 c.459 §103; 1993 c.18 §69; 1993 c.270 §29]

Note: Section 31, chapter 270, Oregon Laws 1993, provides:

Sec. 31. The amendments to ORS 308.256 and 308.260 by sections 29 and 30 of this Act first apply to tax years beginning on or after July 1, 1994. [1993 c.270 §31]

308.260 Watercraft used for reduction or processing of deep-sea fish; machinery and equipment; assessment; taxation. (1) Notwithstanding ORS 308.256, any ship, vessel or other watercraft shall be assessed and taxed in the manner provided in this section if:

(a) On or after July 1 of any tax year, the ship, vessel or other watercraft is docked or moored in any waters subject to the jurisdiction of the State of Oregon; and

(b) The ship, vessel or other watercraft is employed or used as a plant for the reduction or processing, but excluding canning, of deep-sea fish.

(2) Immediately on docking or mooring, the owner or person in charge of a ship, vessel or other watercraft described in subsection (1) of this section shall notify the county assessor. The county assessor shall assess it, together with all machinery and equipment thereon, at its value determined under ORS 308.232. Upon determination of value, the owner or person in charge shall pay to the tax collector as follows:

(a) The exact amount of taxes, special assessments, fees and charges, if the assessor is able to compute the exact amount.

(b) If the assessor is unable to compute the exact amount at the time the property is assessed, either (A) pay the amount estimated by the assessor to be needed to pay

the taxes, special assessments, fees and other charges to become due, or (B) deposit 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 subsection.

(3) It shall be unlawful to operate a floating reduction or processing plant until the county assessor has been notified and the tax paid as provided in this section. If the owner or person in charge fails to notify the assessor, or proceeds to operate the plant before full payment of the tax, the owner or person in charge shall forfeit to the county, for the use of the several taxing jurisdictions interested, a sum equal to twice the amount of the tax. The forfeiture may be recovered by the assessor in an action brought in the name of the county in any court having jurisdiction to the amount thereof. In the action, the penalty shall be preferred before all other debts or claims.

(4) No mistake in the name of the owner of any floating reduction or processing plant shall affect the right to collect the tax or to recover the penalty under this section.

(5) The county assessor is authorized to levy, collect and remit to the tax collector, or the tax collector is authorized to collect, taxes under conditions described in this section. Either the assessor or tax collector is authorized to allow any discount or rebate otherwise provided by law for payment of taxes before the regular due date or dates. ORS 311.370 shall apply to all taxes collected before the regular due date or dates.

(6) Assessments of floating reduction or processing plants shall:

(a) Be heard by the county board of equalization or county board of ratio review in the same manner as assessments of other properties; and

(b) Be made as provided in ORS 308.232. [Amended by 1975 c.780 §5; 1979 c.350 §4; 1981 c.804 §42; 1991 c.459 §104; 1993 c.270 §30]

Note: See note under 308.256.

308.270 Public lands sold or contracted to be sold to be placed on assessment roll; obtaining list of such lands and of final certificates issued. The assessor of each county shall, immediately after July 1 of each year, obtain from the Division of State Lands, from each other state agency holding title to real property and from the appropriate agency of the United States, lists of public lands sold, or contracted to be sold, and of final certificates issued for lands in the county of the assessor during the year

ending at 1:00 a.m. of such July 1. The assessor shall place such lands upon the assessment roll. The division and each other state agency holding title to real property shall certify to the assessor a list or lists of all public lands in the county sold by it, or contracted to be sold, during such year. [Amended by 1967 c.421 §198; 1991 c.459 §105]

308.275 Use of reproduction cost or prices and costs in determining assessed valuation. (1) The Department of Revenue shall prescribe a base in terms of the construction costs of a specified year for the computation of reproduction costs.

(2) If any county assessor uses reproduction costs as one of the means of determining the real market value of real or personal property, the reproduction costs shall be computed on the basis of the construction costs of the year so specified by the Department of Revenue.

(3) If any county assessor uses the prices and costs prevailing in any year as a basis for determining real market values for any classes of property, the prices and costs for the same year shall be applied uniformly in the assessment of all property of the same class in the county. [Amended by 1981 c.804 §43; 1985 c.613 §19; 1991 c.459 §106]

308.280 [Amended by 1953 c.179 §2; 1967 c.78 §3; 1967 c.293 §9; 1969 c.561 §3; 1971 c.472 §1; 1975 c.764 §2; 1975 c.780 §6; 1977 c.884 §6; 1979 c.241 §47; 1979 c.692 §11c; 1981 c.804 §45; 1983 s.s. c.5 §5; repealed by 1991 c.96 §13 and 1991 c.459 §183]

308.281 [1981 c.364 §2; 1983 s.s. c.5 §5a; repealed by 1991 c.96 §13 and 1991 c.459 §183]

308.282 [1957 c.324 §7; 1981 c.804 §47; repealed by 1991 c.459 §183]

308.285 Requiring taxpayer to furnish list of taxable property. Every county assessor may require any taxpayer to furnish a list of all the taxable real and personal property owned by, or in the possession of the taxpayer and situated in the county. The list shall be signed by the taxpayer, or the managing agent or officer, and shall be verified by oath. Only information that will aid the assessor in arriving at real market value shall be required in the list. [Amended by 1971 c.574 §1; 1981 c.804 §48; 1991 c.459 §107]

308.287 [1981 c.804 §44; repealed by 1983 s.s. c.5 §26]

308.289 [1981 c.804 §46; 1983 s.s. c.5 §6; repealed by 1991 c.96 §13 and 1991 c.459 §183]

308.290 Returns; personal property; real property; combined real and personal returns for industrial property; contents; filing; extensions; confidentiality; lessor-lessee elections. (1)(a) Every person and the managing agent or officer of any firm, corporation or association owning, or having in possession or under control taxable personal property shall make a return of the property for ad valorem tax purposes to the assessor

of the county in which such property has its situs for taxation; however, as between a mortgagor and mortgagee or a lessor and lessee, the actual owner and the person in possession may agree between them as to who shall make the return and pay the tax, and the election shall be followed by the person in possession of the roll who has notice of the election. Upon the failure of either party to file a personal property tax return on or before August 1 of any year, both parties shall be jointly and severally subject to the provisions of ORS 308.295 and 308.300.

(b) Every person and the managing agent or officer of any firm, corporation or association owning or in possession of taxable real property shall make a return of the property for ad valorem tax purposes when so requested by the assessor of the county in which such property is situated.

(2)(a) Each return of personal property shall contain a full listing of such property and a statement of its real market value, including a separate listing of those items claimed to be exempt as imports or exports; or, at the option of the assessor, the return may contain a listing of the additions or retirements made since the prior July 1, indicating the book cost and the date of acquisition or retirement. Each return shall contain the name, assumed business name, if any, and address of the owner of the personal property and if it is a partnership, the name and address of each general partner or if it is a corporation, the name and address of its registered agent.

(b) Each return of real property shall contain a full listing of the several items or parts of such property specified by the assessor and a statement exhibiting their real market value; or at the option of the assessor the return shall contain a listing of the additions and retirements made during the year indicating the book cost, book value of the additions and retirements or the appraised value of retirements as specified in the return by the assessor.

(c) There shall be annexed to each return the affidavit or affirmation of the person making the return that the statements contained in the return are true. All returns shall be in such form as the assessor, with the approval of the Department of Revenue, may prescribe. Prior to June 1 preceding the tax year, the department or assessor shall cause blank forms for the returns to be prepared and distributed by mail, but failure to receive or secure the form shall not relieve the person, managing agent or officer from the obligation of making any return required by this section.

(3) All returns shall be filed on or before August 1 of each year, but the assessor, upon written request filed with the assessor prior to that date and for good cause shown in the request, shall allow for an extension of time within which to file the return to September 1. The department shall adopt rules for the granting of extensions under this subsection.

(4)(a) In lieu of the returns required under subsection (1)(a) or (b) of this section, every person and the managing agent or officer of any firm, corporation or association owning or having in possession or under control taxable real and personal property that is either principal or secondary industrial property as defined by ORS 306.126 (1) and is appraised by the department shall file a combined return of the real and personal property with the department.

(b) The contents and form of the return shall be as prescribed by rule of the department. Any form shall comply with ORS 308.297. Notwithstanding ORS 308.875, a manufactured structure that is a part of an industrial property shall be included in a combined return.

(c) In order that the assessor may comply with ORS 308.295, the department shall provide a list to the assessor of all combined returns required to be filed with the department under this subsection but were not filed on or before the due date or within the time allowed by an extension.

(d) If the department has delegated appraisal of the property to the assessor under ORS 306.126 (3), the department shall notify the person otherwise required to file the combined return under this subsection as soon as practicable after the delegation that the combined return is required to be filed with the county assessor.

(e) Notwithstanding subsection (1) or (3) of this section, a combined return of real and personal property that is industrial property appraised by the department shall be filed with the department on or before July 15 of the tax year.

(5)(a) Any person required to file a return under subsection (4) of this section may apply to the Department of Revenue for an extension of the time within which to file the return to August 31. An extension granted under this subsection shall continue in effect for each subsequent tax year unless canceled by the person or revoked by the department. An extension granted under this subsection shall apply to returns required to be filed with either the county assessor or the department. The department shall provide for notification of county assessors of the granting of extensions under this subsection.

(b) The Department of Revenue shall, by rule, establish procedures and criteria for the granting of extensions provided for under paragraph (a) of this subsection. The department shall adopt such rules after consultation with an advisory committee selected by the department that represents the interests of county assessors and affected taxpayers.

(6) No return shall be controlling on the assessor or on the Department of Revenue in any respect in the assessment of any property. On any failure to file the required return, the property shall be listed and evaluated from the best information obtainable from other sources.

(7) All returns filed under the provisions of this section and ORS 308.525, 308.720 and 308.810 shall be confidential records of the office in which such returns are filed; except that all such returns shall be available to the Department of Revenue or its representative, to the representatives of the Secretary of State or to an accountant engaged by a county under ORS 297.405 to 297.555 for the purpose of auditing the county's personal property tax assessment roll (including adjustments to returns made by the Department of Revenue), to the county tax collector or the tax collector's representative for the purpose of collecting delinquent personal property taxes, to any reviewing authority as to those returns relating to appeals by taxpayers and to the Legislative Revenue Officer or authorized representatives for the purpose of preparation of reports, estimates and analyses required by ORS 173.800 to 173.850. The Department of Revenue may exchange property tax information with the authorized agents of the Federal Government and the several states on a reciprocal basis.

(8) If the real market value of any personal property in possession of a lessee is less than \$3,000, the person in possession of the roll may disregard an election made under subsection (1) of this section and assess the owner or lessor of the property. [Amended by 1953 c.218 §2; 1961 c.683 §2; 1963 c.436 §1; 1965 c.16 §1; 1967 c.50 §1; 1971 c.568 §2; 1971 c.574 §2; 1975 c.789 §12; 1977 c.124 §6; 1977 c.774 §24; 1979 c.286 §14; 1981 c.623 §2; 1981 c.804 §49; 1987 c.312 §3; 1991 c.191 §5; 1991 c.459 §108; 1993 c.726 §56; 1993 c.813 §2]

Note: See note under ORS 308.250.

Note: Section 57, chapter 726, Oregon Laws 1993, provides:

Sec. 57. The amendments to ORS 308.290 by section 56 of this Act apply to tax years beginning on or after July 1, 1994. [1993 c.726 §57]

308.292 [1955 c.233 §1; 1957 c.542 §1; repealed by 1979 c.692 §13]

308.295 Penalty for failure to file return on time; notice; cancellation. (1) Each person, firm, corporation or association required by ORS 308.290 to file a return, who or which has not filed a return within the

time fixed in ORS 308.290 or as extended, is delinquent.

(2) A delinquent taxpayer is subject to a penalty of \$1 for each \$1,000 (or fraction thereof) of assessed value of the property as determined under ORS 308.232, but such penalty shall not be less than \$10 or more than \$250.

(3) If a delinquency penalty provided in this section is imposed, the tax statement for the year in which the penalty is imposed shall reflect the amount of the penalty and shall constitute notice to the taxpayer.

(4) The county board of equalization may, upon application of the taxpayer, excuse the liability for the penalty upon a proper showing that by reason of good and sufficient cause, the requirement to file pursuant to ORS 308.290 could not be complied with. However, an application made under this subsection shall not be considered by the board unless filed timely and in the same manner as an appeal under ORS 309.100. There shall be no appeal from the determination of the board under this subsection.

(5) If the board excuses a penalty already imposed and entered on the roll, the person in charge of the roll shall cancel the penalty and enter the cancellation on the roll as an error correction under ORS 311.205 and, if the penalty has been paid, it shall be refunded without interest under ORS 311.806. [Amended by 1963 c.436 §2; 1967 c.405 §1; 1969 c.280 §1; 1971 c.472 §2; 1981 c.804 §50; 1983 c.604 §1; 1985 c.162 §4; 1985 c.318 §1; 1989 c.330 §1; 1991 c.459 §109a]

308.297 Returns to note penalty for delinquency. Any personal property tax return form given to a taxpayer by an assessor or the Department of Revenue shall contain within it a printed notice, or be accompanied by a printed notice, of the penalty, for delinquency in filing a personal property tax return. [1967 c.405 §2; 1985 c.604 §7]

308.300 Penalty for neglecting to file return with intent to evade taxation. Any person, managing agent or officer who, with intent to evade taxation, refuses or neglects to make any return required by ORS 308.290 and to file it with the assessor or the Department of Revenue within the time specified, or as extended, shall be subject to a penalty of \$10 for each day of the continuance of such refusal or neglect. Such penalty may be recovered in a proper action brought in the name of the county in any court of competent jurisdiction or as provided for a penalty for delinquency. [Amended by 1991 c.459 §109]

308.302 Disposition of penalties collected pursuant to ORS 308.030, 308.295 or 308.300. All penalties collected pursuant to ORS 308.030, 308.295 or 308.300 shall be

credited to the general fund of the county. [1953 c.49 §2; 1977 c.884 §31]

308.305 [Repealed by 1955 c.610 §1]

308.309 [1955 c.488 §1; 1957 c.541 §1; 1959 c.81 §1; renumbered 321.955]

308.310 When list of persons issued electrical permits supplied. The Electrical and Elevator Board in the Department of Consumer and Business Services shall furnish any county assessor upon request a complete list of those persons who have been issued electrical permits in such county within one year of the date of the request, together with the location of the electrical installations requested thereby. The board shall have 30 days to prepare the list after the board has received the request. [Amended by 1983 c.740 §88; 1987 c.414 §149; 1993 c.744 §107]

308.315 [Repealed by 1955 c.610 §1]

308.316 Examining witnesses, books and records; reference of matter to department upon failure to produce records or testify. (1) The county assessor, for the purpose of ascertaining the correctness of any assessment or for the purpose of making any assessment, and the officer having possession of the roll, for the purpose of discovering any omitted value or property under ORS 311.207 to 311.213, may examine or cause to be examined by any agent or representative designated by the assessor or officer any books, papers, records or memoranda bearing on the value, possession, ownership or location of any property, and may require the attendance of the taxpayer or any other person having knowledge in the premises. The assessor may administer oaths to such persons, take their testimony, and require proof material to the information requested. Examination shall be made and testimony taken during regular business hours at the taxpayer's or person's place of business in the county, or at another place convenient to the parties.

(2) If any person fails to permit the examination of any books, papers or documents considered by the assessor to be pertinent to the investigation or inquiry being made, or to testify to any matter in the premises, the assessor shall refer the matter to the Department of Revenue, stating in full the facts governing the request and refusal. The department may require the assessor to present additional facts, or the department may conduct other inquiries necessary to a consideration of the matter. If the department finds that the examination should be made or the testimony taken, it shall take any action it considers appropriate under the powers granted to it by law, including the subpoenaing and examination of witnesses, books and papers pursuant to ORS 305.190, to the

end that the property under consideration is ratably assessed according to law.

(3) For the purposes of this section the words "county assessor" or "assessor" mean both the county assessor and the officer described in ORS 311.207 to 311.213 having possession of the roll. [1955 c.610 §2; 1981 c.804 §51]

308.320 Oath of assessor upon completion of assessment roll. (1) Every county assessor, at the time of the completion of the assessment roll, shall take and subscribe to an oath in substantially the following language and form:

State of Oregon)
County of _____) ss.

I, _____, being the duly elected, qualified and acting assessor of the above-named county, do solemnly swear that I have diligently and to the best of my ability assessed all property in said county, which by law I am permitted to assess; that I have not willfully or knowingly omitted to assess any person or property, or valued over its real market value any property or class of property whatever.

Subscribed and sworn to before me this _____ day of _____, 19____.

(Official seal) (Signature and title of officer)

(2) The oath shall forthwith be filed by the assessor with the Department of Revenue on or before the first Friday the department is in session as a board of equalization and review.

(3) No assessor shall fail to make and subscribe to the oath required by this section nor to file the oath with the Department of Revenue. [Amended by 1981 c.804 §52; 1991 c.459 §110]

308.325 Certificate of assessment to person assessed. Any person assessed for any year may demand of the assessor an official certificate of that fact. Upon the refusal of the assessor to give the certificate, the assessor shall be fined \$100, to be collected by the person demanding the certificate in an action in the name of the party injured before any justice of the peace in the county.

308.330 Duty of assessor to assess properly. No assessor shall willfully or knowingly:

(1) Omit to assess any person or property assessable.

(2) Assess any property or class of property under or over its value, as provided in ORS 308.232. [Amended by 1981 c.804 §53]

308.335 Department testing work of county assessors; supplementing assessment list; special assessor. (1) The Department of Revenue, upon its own volition or at the request of the county governing body, may examine and test the work of county assessors at any time, and shall have and possess all rights and powers of such assessors for the summoning of witnesses and examination of persons and property, and for the discovery of property subject to taxation.

(2) If the department ascertains that any taxable property is omitted from the assessment list, or not assessed or valued according to law, it shall bring that fact to the attention of the assessor of the proper county in writing. If the assessor neglects or refuses to comply with the request of the department to place the property on the assessment list, or to correct the incorrect assessment or valuation, the department may prepare a supplement to the assessment list, which supplement shall include all property required by the department to be placed on the assessment list and all corrections required to be made. The supplement shall be filed with the assessor's assessment list and shall thereafter constitute an integral part thereof to the exclusion of all portions of the original assessment list inconsistent therewith.

(3) If the department ascertains that the work of a county assessor is not being carried out as provided by law, the department shall notify the governing body of that fact by written report. If applicable, the report shall contain recommendations for appointment of a special assessor as provided under ORS 308.055. [Amended by 1989 c.796 §19; 1993 c.270 §32]

308.340 [1969 c.561 §4; 1971 c.747 §17; 1977 c.884 §7; 1979 c.241 §49; 1979 c.553 §9b; 1981 c.804 §54; repealed by 1991 c.459 §183]

308.341 Exemption for reduction in value by reason of comprehensive plan or zone change. (1) If the real market value of any real property is reduced by reason of the adoption of or a change in the comprehensive plan, zoning ordinance or zoning designation for the property not at the request of the owner, the owner on the date of the adoption or change may file a claim for exemption with the assessor. The claim shall be filed on or before April 1 of any year, but not later than two years after April 1 of the calendar year in which the real market value was so reduced. The claim shall be on forms furnished by the assessor and approved by the Department of Revenue.

(2) The assessor shall compute the difference in real market value attributable to such reduction, between the real market value of the property as of the July 1 assessment date for which the real market value was so reduced, and the real market value as of the July 1 immediately prior to such reduction. Beginning in the year in which the claim is filed and for four consecutive years thereafter, the assessor shall assess the property at a value equal to the real market value of the property as of July 1 less the difference in the real market value of the property attributable to the reduction. In no case shall the taxable value be reduced below zero. The assessor shall notify the person in whose name the property is assessed of the amount of the reduction in value and of the approximate dollar amount of tax reduction, based upon the tax rate extended against the property on the last tax roll. The notice shall be mailed to the address of the person as indicated on the claim for exemption. [1977 c.423 §1; 1981 c.804 §55; 1991 c.459 §111]

Note: 308.341 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.342 Notice of changes; county and city planning directors; county assessors; owners of property. (1) The directors of county and city planning activities within the county shall notify the county assessor of the adoption of or changes in comprehensive plans, zoning ordinances and zoning designations within 30 days after the date of the change.

(2) The assessor shall notify the owner of property that has received a reduction in real market value due to the adoption of or change in comprehensive plan, zoning ordinance or zoning designation. The notice shall include a brief description of the plan or zoning change reflected in the reduced assessment. The notice shall inform the owner that application may be made for the exemption granted by ORS 308.341 and state the address from which further information pertaining to the exemption may be obtained. The notice shall be mailed to the last-known address of the person to whom the property is assessed at the address appearing in the tax records or to any new address reported in writing prior to the mailing of the notice. The notice shall be mailed by August 1 of the tax year for which the real market value of the property first will be reduced. [1977 c.423 §4; 1981 c.804 §56; 1991 c.459 §112]

308.343 Applicability of ORS 308.341 and 308.342. ORS 308.341 and 308.342 shall apply only to that property assessed pursuant to ORS 308.205 and 308.232 for the tax year for which a reduction in value as described in ORS 308.341 occurs and for the imme-

diately preceding tax year. [1977 c.423 §5; 1991 c.459 §113]

AGRICULTURAL LAND
(Comparable Sales Figures)

308.345 Valuation of certain agricultural land to reflect value for farm use only. (1) Many farm properties throughout the state are being valued for ad valorem purposes based upon market data information which does not represent the sale of comparable property for comparable uses and the particular sales which are utilized as indicators of the value of other farm properties, upon independent investigation, have been shown to represent sales for investment or other purposes not connected with bona fide farm use. It is the legislative intent that bona fide properties shall be assessed at a value that is exclusive of values attributable to urban influences or speculative purchases.

(2) Notwithstanding the provisions of ORS 308.205, agricultural lands, when devoted exclusively to farm use as defined in ORS 215.203, shall be valued upon the basis of such farm use whether zoned for exclusive farm use under existing statutes or whether constituting farmlands not within an exclusive farm use zone under ORS 308.370, and when comparable sales figures are utilized in arriving at assessed values of agricultural lands, the county assessors and the Department of Revenue shall make sufficient investigation to ascertain that the sales so utilized in fact represent sales for bona fide farm use. The sales so used, when the potential operation of the agricultural land is examined under accepted agricultural accounting procedures and typical agricultural practices and land use in the county, shall be under conditions that justify the purchase of such agricultural land by a prudent investor for farm use.

(3) When comparable sales figures cannot be utilized in arriving at assessed values of agricultural lands as provided in subsection (2) of this section by reason of insufficient sales meeting the criteria set forth in subsection (2) of this section, the assessed values of agricultural lands shall be arrived at by utilizing an income approach. In utilizing the income approach, the capitalization rate shall be the effective rate of interest charged in Oregon by the Federal Land Bank at the time of closing on loans for farm properties estimated as an average over the immediate past five calendar years, plus a component for the local tax rate. The Department of Revenue annually shall determine and specify such rate according to the best information available, and shall certify such rate to the county assessors.

(4) For purposes of this section, a "prudent investor for farm use" is a person who purchases agricultural lands with the reasonable expectation that the person will be able to realize an average annual return on capital not less than the current rate of interest charged by the Federal Land Bank on first mortgages of farmland in the county in which the agricultural lands are located. [Formerly 308.239; subsection (4) enacted as 1967 c.633 §4; 1967 s.s. c.9 §1; 1975 c.708 §1; 1977 c.278 §1; 1981 c.623 §3; 1981 c.804 §57; 1991 c.459 §114]

308.350 County board of review to advise assessor with respect to use of comparable sales figures in assessing agricultural land; membership of board.

(1) Comparable sales figures or income-approach factors being utilized by a county assessor in arriving at assessed values of agricultural lands under ORS 308.345 shall be submitted by the county assessor to a county board of review. The board of review shall advise the county assessor as to whether the figures or factors being so utilized are proper under ORS 308.345.

(2) The county board of review shall consist of:

(a) Two members appointed by the county court sitting for the transaction of county business, board of county commissioners or other county governing body of the county.

(b) Two members appointed by the county assessor.

(c) One member appointed by the four members appointed as provided in paragraphs (a) and (b) of this subsection, who shall serve for a term of one year.

(3) Each member of the county board of review appointed under subsection (2)(a) and (b) of this section shall serve for a term ending two years after the date of the expiration of the term for which the predecessor of the member was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term.

(4) Members of the county board of review must be persons knowledgeable and experienced in agricultural land values and sales figures.

(5) Members of the county board of review shall be reimbursed by the county for their actual and necessary expenses incurred in the performance of their functions as members. [1967 c.633 §2; 1969 c.512 §1; 1981 c.608 §1; 1981 c.804 §58; 1991 c.459 §115]

308.355 Assessor to make figures available to county board of equalization. Comparable sales figures utilized by a county assessor in arriving at assessed values of agricultural lands under ORS 308.345 (2) shall be made available by the county assessor to

the county board of equalization in the event of any consideration of a petition involving the assessed value of agricultural lands by the board of equalization under ORS 309.100. [1967 c.633 §3; 1981 c.804 §59; 1991 c.459 §116]

308.360 Representatives of farm property owners may petition for declaratory ruling; judicial review of rulings. Any group or organization representing owners of farm properties may petition the Department of Revenue under ORS 305.105 for a declaratory ruling with respect to rules and regulations promulgated under ORS 308.345 to 308.365 and may obtain judicial review of such ruling in the manner provided by ORS 305.445. [1967 c.633 §5; 1967 s.s. c.9 §2]

308.365 Construction provision. ORS 308.345 to 308.360 shall be construed liberally to effectuate their intended purpose. However, except as expressly set out in such sections and to the extent necessary to carry out such sections, nothing contained in such sections shall be construed to alter or modify, by implication or otherwise, any of the tax laws of this state. [1967 c.633 §6]

(Zoned and Unzoned Farmland)

308.370 Special assessment provisions for farmland; effect of certain leases; automatic effect if zoned for farm use; application required if unzoned. Notwithstanding ORS 308.205, 308.232 or 308.235:

(1) Any land which is within a farm use zone established under ORS 215.010 to 215.190 and 215.402 to 215.438 or 227.215 to 227.300, and which is used exclusively for farm use as defined in ORS 215.203 (2), shall, for purposes of assessment, be valued at its value for farm use and not at the real market value it would have if applied to other than farm use.

(2) Any land which is not within a farm use zone but which is being used, and has been used for the preceding two years, exclusively for farm use as defined in ORS 215.203 (2) shall, upon compliance with ORS 308.375, for purposes of assessment, be valued at its value for farm use and not at the real market value it would have if applied to other than farm use. The provisions of this subsection shall not apply to any land with respect to which the owner has granted, and has outstanding, any lease or option to buy the surface rights for other than farm use except leases:

(a) For the exploration of geothermal resources as defined by ORS 522.005 (11), mineral resources or other subsurface resources, or

(b) For the use of land for hunting, fishing, camping or other recreational use,

if the exploration, use or possession does not interfere with the farm use of the farmland.

(3) The entitlement of farmland to the special assessment provisions of this section shall be determined as of January 1. However, if land so qualified becomes disqualified prior to July 1 of the ensuing tax year, it shall be valued under ORS 308.232 at its real market value as defined by law without regard to this section. If the land becomes disqualified after July 1, its assessment for that tax year shall continue as provided in this section. [1963 c.577 §5; 1971 c.629 §1; 1971 c.776 §43; 1975 c.552 §32a; 1977 c.590 §1; 1981 c.588 §2; 1981 c.694 §2; 1981 c.804 §60; 1991 c.459 §117]

308.371 [1979 c.553 §8; 1981 c.419 §6; repealed by 1991 c.459 §183]

308.372 Income requirements for farmland not in an exclusive farm use zone. (1) For purposes of ORS 215.203, 215.213, 215.283, 215.284, 308.345 to 308.373, 308.375, 308.380 and 308.387 to 308.403, farmland or a farm parcel that is not within an area zoned for exclusive farm use under ORS chapter 215 is not used exclusively for farm use unless all of the following prerequisites are met:

(a) Except as provided in subsection (4) of this section, in three out of the five full calendar years immediately preceding the calendar year in which the tax year begins, the farmland or farm parcel was operated as a part of a farm unit that has produced a gross income from farm uses in the amount provided in ORS 308.407 (3) and (4), and if applicable, the farm parcel was operated in a manner that meets the income requirements of ORS 308.407 (5).

(b) Excise or income tax returns are filed with the Department of Revenue for purposes of ORS chapter 316, 317 or 318 by the farmland owner or the operator of the farm unit that include a Schedule F and, if applicable, by the owner of a farm parcel that include a schedule or schedules showing rental income received by the owner of the farm parcel, during the years to which the income requirements of paragraph (a) of this subsection apply.

(c) Upon request, a copy of the returns or the schedules of the returns showing the gross income received from farm use is furnished by the taxpayer to the county assessor.

(2)(a) As used in this section, "gross income" includes the value of any crop or livestock that is used by the owner personally or in the farming operation of the owner, but shall not include the value of any crop or livestock so used unless records accurately reflecting both value and use of the crop or livestock are kept by the owner in a

manner consistent with generally accepted accounting principles.

(b) The burden of proving the gross income of the farm unit for the years described in subsection (1) of this section is upon the person claiming special assessment for the land.

(c) In determining gross income, the purchase cost of livestock shall be deducted from gross income.

(3)(a)(A) Land under dwellings customarily provided in conjunction with the farm use of farmland described in subsection (1) of this section shall be assessed at the value determined under ORS 308.377 if the farmland was operated as a part of a farm unit that produced over one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this subsection.

(B) Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farmland described in subsection (1) of this section, and which is not currently being used for any economic farm use shall be assessed at farm use value if the farmland was operated as part of a farm unit that produced over one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this subsection. For purposes of determining adjusted gross income of an owner or owners under this paragraph, "owner" means any person described in ORS 308.375 (2)(b)(A), (B) or (E) and the owner's spouse.

(b) To qualify for such assessment, the owner or owners shall file an application with the county assessor on or before April 15 of each year such assessment is desired. The application shall be made on forms prepared by the Department of Revenue and supplied by the assessor and shall include such information as may be reasonably required to determine the entitlement of the applicant, including copies of applicable state income tax returns. Such information shall be confidential information of the assessor's office and shall be used for purposes of this subsection only, including determinations made under administrative and court proceedings where entitlement is in issue.

(c) There shall be annexed to each application the affidavit or affirmation of the applicant that the statements contained therein are true.

(d) For purposes of this subsection, "owner" or "owners" means the person or persons entitled to file for special assessment under ORS 308.375 (2)(b).

(4) The failure of a farm unit to produce the amount of gross income required by ORS 308.407 shall not prevent the farm unit from meeting the qualifications of subsection (1) of this section if:

(a) The failure is due to:

(A) The effect of flooding that substantially precludes normal and reasonable farming during the year; or

(B) Severe drought conditions are declared under ORS 536.700 to 536.780; and

(b) The farm unit produces the required amount of gross income in three out of the last five nonflood or nondrought years. [1977 c.339 §1; 1979 c.480 §4; 1983 c.826 §21; 1987 c.305 §6; 1987 c.614 §4; 1991 c.459 §117a; 1993 c.19 §8; 1993 c.792 §23]

Note: 308.372 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Section 14 (1), chapter 19, Oregon Laws 1993, provides:

Sec. 14. (1) The amendments to ORS 308.372, 308.390 and 308.397 by sections 8, 10 and 11 of this Act first apply to tax years beginning on or after July 1, 1992. [1993 c.19 §14 (1)]

308.373 Effect of acquisition of farmland by governmental body on exchange. (1) If land specially valued under ORS 308.370 (1) or (2), 321.272 (2), 321.420 or 321.720 is acquired by a governmental agency or body as a result of an exchange of the land for land of approximately equal value held by the governmental agency or body, then notwithstanding ORS 308.390 (2)(b), 308.397, 321.359 (1)(a)(B), 321.760 (2) or 321.820 (1)(a)(B), no additional taxes, interest or penalties shall be imposed under ORS 308.395, 308.399, 321.372, 321.760 (3), 321.825 or 321.960 on account of the exchange. As of the day preceding the date of the exchange, the potential additional tax liability shall cease to exist as a contingent lien or liability against the property acquired by the governmental agency or body as a result of the exchange and shall be transferred to and be noted on the assessment and tax roll as potential additional tax liability against the land acquired by the other party to the exchange.

(2) If, upon an exchange described under subsection (1) of this section, the land acquired from the governmental agency or body is not farm use land located within an exclusive farm use zone or is not land, the highest and best use of which is the growing and harvesting of trees of a marketable species, the owner shall make application for special valuation as farm or forest land in the manner provided under ORS 308.375, 321.358, 321.730 or 321.815, whichever is applicable, as follows:

(a) If the exchange takes place prior to July 1, the owner shall file the application on or before August 1.

(b) If the exchange takes place on or after July 1, the owner shall file the application on or before April 1 of the following year. Failure to file an application as required under this subsection, or failure to otherwise meet the qualification for special valuation under the special assessment law for which application is made shall disqualify the land for purposes of ORS 308.395, 308.399, 321.372, 321.760 or 321.825, whichever is applicable. However, the amount of additional taxes and interest imposed upon the disqualification under this subsection shall be equal to those that would have been imposed against the land transferred to the governmental agency or body on account of the exchange were it not for subsection (1) of this section.

(3) For purposes of computing additional taxes and interest under ORS 308.395, 308.399, 321.372, 321.760, 321.825 or 321.960 upon subsequent disqualification of land acquired as a result of an exchange described in subsection (1) of this section, the number of years of special assessment shall be equal to the number of years the land transferred to the governmental agency or body received the special assessment before the exchange plus the number of years, if any, the land acquired from the governmental agency or body received a special assessment after the exchange. In all other respects, the additional taxes and interest shall be as determined under ORS 308.395, 308.399, 321.372, 321.760, 321.825 or 321.960, whichever is applicable.

(4) If an application filed under subsection (2) of this section is for classification for special farm use assessment under ORS 308.370 (2), the owner shall have five years beginning with the first year of classification to meet the income requirements under ORS 308.372 and need not meet the two-year farm use requirements of ORS 308.370 (2).

(5) This section shall not apply to an exchange of forestland to which ORS 321.359 (1)(d) or 321.820 (1)(d) applies. [1983 c.623 §2; 1985 c.565 §53a; 1987 c.158 §45a; 1991 c.459 §118]

308.374 Acquired land as part of farming unit; valuation. (1) Notwithstanding ORS 308.205 or 308.235, for purposes of assessment, upon application, acquired land shall be valued at its value for farm use if:

(a) The acquired land:

(A) Is not in an exclusive farm use zone;

(B) Is, immediately upon acquisition, put into farm use; and

(C) Is operated as part of the total farming unit with the original land; and

(b) The original land:

(A) Is owned by the purchaser of the acquired land;

(B) Is in farm use;

(C) Is assessed under ORS 308.370; and

(D) Produced gross income of at least \$10,000 in the calendar year prior to acquisition.

(2) Land which qualifies for farm use assessment under subsection (1) of this section shall, for purposes of the gross income requirement under ORS 308.372, be added to and treated as a part of the entire farming unit upon acquisition. [1987 c.589 §2; 1991 c.459 §119]

308.375 Application for special assessment; farmland not in an exclusive farm use zone. (1) Any owner of farmland entitled to special assessment under ORS 308.370 (2) must, to secure such assessment, make application therefor to the county assessor on or before April 1 preceding the first tax year in which such assessment is desired.

(2)(a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include such information as may reasonably be required to determine the entitlement of the applicant.

(b) The application may be signed by any one of the following:

(A) The owner of the farmland who holds an estate therein in fee simple or for life.

(B) Any one of tenants in common or tenants by the entirety, holding an estate in the farmland in fee simple or for life.

(C) Any person of legal age, duly authorized in writing to sign an application on behalf of any person described in subparagraph (A) or (B) of this paragraph.

(D) The guardian or conservator of an owner, or the executor or administrator of an owner's estate.

(E) The purchaser of the fee simple or life estate of an owner under a contract of sale.

(c) The assessor or the deputy of the assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.

(3) There shall be annexed to each application the affidavit or affirmation of the applicant that the statements contained therein are true. [1963 c.577 §6; 1967 c.93 §1; 1969 c.396 §1; 1971 c.629 §2; 1991 c.459 §120]

308.376 When dwelling or homesite is used in conjunction with farm use land; occupancy by operator, employee or retired operator. For purposes of ORS 308.372 (3), 308.377 and 308.378, the use of a dwelling "in conjunction with farm use" of farm use land includes but is not limited to use of the dwelling under circumstances as follows:

(1) The dwelling is owned and occupied by a person who is engaged in the operation of the farm use land, is occupied by an employee of the owner of farm use land who is employed in connection with the farming operation or is occupied by a person who is involved in the farming operation; or

(2) The dwelling is owned and occupied by a person who is no longer engaged in the farm operation on the farm use land but:

(a) Whose principal source of income is from the farm operation on the farm use land on which the dwelling is located;

(b) Who owned and occupied the dwelling, and was engaged in the farm operation, during the five consecutive tax years before the tax year in which engagement in the farm operation ended; and

(c) Who has owned and occupied the dwelling continuously during the period since engagement in the farm operation ended. For purposes of this paragraph, "continuous" includes any period in which the dwelling is unoccupied due to health, vacation or other reason, if during the period the dwelling is not leased or rented to another person. [1993 c.703 §2]

Note: 308.376 was added to and made a part of ORS chapter 308 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

308.377 Homesite value; computation; definition of homesite. (1) To determine homesite value for purposes of ORS 308.345 and 308.372 the maximum value of a homesite is: Real market value as provided in ORS 308.205 for the bare land of the total parcel and contiguous acres under same ownership divided by the number of acres in the total parcel and contiguous acres under the same ownership, plus \$4,000 or the depreciated replacement cost of land improvements necessary to establish the homesite, whichever is less.

(2) For the purposes of establishing a homesite value, the value of one acre of land for each homesite, as determined in subsection (1) of this section shall be used.

(3) As used in this section, "homesite" means the land, including all tangible improvements to the land and all intangible assets to the land, under and adjacent to a dwelling and other structures, if any, which are customarily provided in conjunction with the dwelling. [1987 c.305 §2; 1991 c.459 §121]

308.378 Homesite assessed at real market value; criteria; homesite disqualified from special assessment. (1) A homesite shall be assessed at real market value as defined in ORS 308.205 if the dwelling:

(a) Is not being used in conjunction with farm use; and

(b) Is used for a nonfarm purpose; however, vacancy does not constitute a change in use.

(2) If a homesite becomes disqualified from special assessment under the provisions of subsection (1) of this section, except for partition as allowed by ORS 215.263 (4), no additional tax shall be imposed under ORS 308.395 or 308.399 upon the owner of that land. The remaining qualifying portion of the parcel shall be valued as specially assessed. [1987 c.305 §3; 1991 c.459 §122]

308.380 "Farm use" to be defined and determined. (1) The Department of Revenue shall provide by regulation a more detailed definition of farm use, consistent with the general definition in ORS 215.203 (2), to be used by county assessors in determining entitlement to special assessment under ORS 308.370 (2). Such regulations shall not be designed to exclude from the special assessment those lands which are in farm use as defined in ORS 215.203 (2) for which tax relief is intended.

(2) In determining entitlement to special assessment under ORS 308.370 (2), the county assessor shall consider the use of the land by the owner, renter or operator thereof together with any other lands that are a part of one farming unit being operated by such owner, renter or operator. [1963 c.577 §7; 1969 c.512 §2]

308.382 Effect of disqualification for special assessment of land lying within exclusive farm use zone. (1) When land lying within an exclusive farm use zone and specially assessed at its value for farm use under ORS 308.370 (1) or sections 1 to 4, chapter 174, Oregon Laws 1987, becomes subject to disqualification, after December 31, 1986, and before January 1, 1997, for such special assessment under ORS 308.397 (2)(a) or section 4 (2), chapter 174, Oregon Laws 1987, because it is not being used as farmland, and if, in addition, the reason that the land is not being used as farmland is other than that the land is being used for

industrial, commercial, residential or other use or uses inconsistent with a purpose to return the use of the land to use as farmland, then:

(a) For the tax year for which disqualification under ORS 308.397 or section 4, chapter 174, Oregon Laws 1987, would otherwise occur and, subject to subsections (2) and (3) of this section, for each tax year thereafter, the land shall be assessed at real market value under ORS 308.205 and 308.232;

(b) The additional tax imposed under ORS 308.399 or 321.960, whichever is applicable, shall not be collected but shall remain as potential additional tax liability for the property; and

(c) The notation on the roll required under ORS 308.397 shall be continued as a notation on the assessment and tax roll.

(2) If land that is returned to assessment at real market value under subsection (1) of this section thereafter becomes disqualified for special assessment at its value for farm use because it is used for industrial, commercial, residential or other purposes inconsistent with a purpose to return the land to farm use, or because it is removed from an exclusive farm use zone, then any additional taxes due under ORS 308.399 or 321.960, whichever is applicable, shall be determined and added to the next general property tax roll to be collected and distributed in the same manner as other real property tax. However, in computing the additional tax, the following shall apply:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land in that year and the taxes that would otherwise have been assessed against the land had the land not been in farm use; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the special assessment was in effect for the land, not to exceed the applicable maximum number of years specified under ORS 308.399 or 321.960.

(3) If the land that becomes subject to subsection (1) of this section thereafter requalifies or qualifies for any of the special assessments listed in ORS 321.960, then for purposes of determining any additional taxes due upon a later disqualification, the following shall apply:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land, and the taxes that would have been assessed against

the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the special assessment was in effect for the land, not to exceed the applicable maximum number of years specified under ORS 308.399 or 321.960.

(4) This section shall not apply to a homesite to which ORS 308.377 and 308.378 apply or to a parcel described under ORS 215.236 (4) except in the circumstances described under ORS 215.236 (5). [1987 c.614 §2; 1991 c.459 §123; 1993 c.19 §9]

308.384 Effect of disqualification for special assessment of unzoned farmland.

(1) When land specially assessed at its value for farm use under ORS 308.370 (2) or sections 1 to 4, chapter 174, Oregon Laws 1987, becomes subject to disqualification, after December 31, 1986, and before July 1, 1997, for such special assessment under ORS 308.390 (2)(c) or subsection (2) of section 4, chapter 174, Oregon Laws 1987, because it is no longer in farm use, and if, in addition, the reason that the land is no longer in farm use is other than that the land is being used for industrial, commercial, residential or other use or uses inconsistent with a purpose to return the use of the land to farm use, then:

(a) For the tax year for which disqualification under ORS 308.390 or section 4, chapter 174, Oregon Laws 1987, would otherwise occur and, subject to subsections (2) and (3) of this section, for each tax year thereafter, the land shall be assessed at real market value under ORS 308.205 and 308.232;

(b) The additional tax imposed under ORS 308.395 (1) or 321.960, whichever is applicable, shall not be collected but shall remain as potential additional tax liability for the property; and

(c) The notation on the roll required under ORS 308.390 shall be continued as a notation on the assessment and tax roll.

(2) If land that is returned to assessment at real market value under subsection (1) of this section thereafter becomes disqualified for special assessment at its value for farm use because it is used for industrial, commercial, residential or other purposes inconsistent with a purpose to return the land to farm use, or is disqualified under ORS 308.390 (2)(a), (b) or (d), then any additional taxes due under ORS 308.395 or 321.960, whichever is applicable, shall be determined and added to the next general property tax roll to be collected and distributed in the same manner as other real property tax. However, in computing the additional tax, the following shall apply:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land in that year and the taxes that would otherwise have been assessed against the land had the land not been in farm use; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the special assessment was in effect for the land, not to exceed the applicable maximum number of years specified under ORS 308.395 or 321.960.

(3) If the land that becomes subject to subsection (1) of this section thereafter requalifies or qualifies for special assessment under any of the laws listed in ORS 321.960, then for purposes of determining any additional taxes due upon a later disqualification, the following shall apply:

(a) The amount of the additional tax due for each year to which the additional tax applies shall be the difference between the taxes assessed against the land, and the taxes that would have been assessed against the land in that year had the land not been in special assessment; and

(b) The number of years for which the additional tax shall be collected shall be the total number of years (whether or not continuous) that the special assessment was in effect for the land, not to exceed the applicable maximum number of years specified under ORS 308.395 or 321.960.

(4) This section shall not apply to a homesite to which ORS 308.377 and 308.378 apply.

(5) If land is subject to disqualification for failure to meet the income requirements of ORS 308.372 and 308.407, but is also subject to this section, then notwithstanding subsection (2) or (3) of this section, so much of the additional tax entitled to abatement under ORS 308.404 and 308.406 shall be abated and any additional tax described under subsection (2) or (3) of this section reduced accordingly. [1987 c.614 §3; 1991 c.459 §124]

308.385 [1963 c.577 §8; 1971 c.621 §32; repealed by 1971 c.629 §6]

308.387 Special assessment when land previously disqualified. Land that has been disqualified for special assessment under ORS 308.370 (2), 308.390 and 308.395 for the 1981, 1982 or 1983 assessment years solely because the land is included in a subdivision platted and recorded under ORS chapter 92 may be requalified for special assessment if:

(1) The owner submits an application for special assessment under ORS 308.375; and

(2) The land meets all of the qualifications for special farm use assessment under ORS 308.370 (2). [1983 c.462 §4]

308.390 Method of assessment of un-zoned land; disqualification; owner to notify of use change. (1) Upon approval of an application, the county assessor shall assess land approved under ORS 308.375 at the special assessment provided in ORS 308.370 (2) and shall also enter on the assessment and the tax roll the notation "potential additional tax liability" until the land is disqualified for special assessment under subsection (2) of this section.

(2) The county assessor shall disqualify land for special assessment approved under subsection (1) of this section upon:

(a) Notification by the taxpayer to the assessor to remove the special assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(c) Removal of the special assessment by the assessor upon the discovery that the land is no longer in farm use; or

(d) The act of recording a subdivision plat after September 9, 1971, under the provisions of ORS chapter 92.

(3) The county assessor shall not disqualify the land that has been receiving special assessment upon the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner if the land continues to be used exclusively for farm use as defined in ORS 215.203 (2).

(4) The county assessor shall not disqualify land that has been receiving special assessment or deny approval of an application for special assessment solely because the land is included in a subdivision platted and recorded under ORS chapter 92.

(5) When, for any reason, the land or any portion thereof ceases to be used exclusively for farm use as defined in ORS 215.203 (2), the owner at the time of the change in use shall notify the assessor of such change prior to the next July 1 assessment date.

(6) If under subsection (2)(d) of this section, the county assessor disqualifies land for special assessment upon the act of platting the land, the land, or a part of the land, may be requalified for special assessment upon:

(a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

(b) Submission by the owner of an application for special assessment under ORS 308.375;

(c) Meeting all of the qualifications for special farm use assessment under ORS 308.370 (2); and

(d) Meeting the requirements, if any, of applicable local government zoning ordinances with regard to minimum lot or parcel acreage for farm use.

(7) The county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because of:

(a) The effect of flooding that substantially precludes normal and reasonable farming during the year; or

(b) Severe drought conditions are declared under ORS 536.700 to 536.780. [1963 c.577 §9; 1971 c.629 §3; 1973 c.303 §3; 1979 c.480 §3; 1983 c.462 §2; 1991 c.459 §125; 1993 c.19 §10]

Note: See second note under 308.372.

308.391 Disqualification of zoned or unzoned land no longer in farm use upon assessor notice before August 15. (1)(a) Notwithstanding ORS 308.210, 308.370 (3), 311.405 or 311.410 but subject to paragraph (b) of this subsection, disqualification by the county assessor of land for special assessment as farmland for the reason that the land is no longer in farm use as described under ORS 308.390 (2)(c) or 308.397 (1) shall occur as of the July 1 assessment date of the tax year in which the county assessor discovers that the land is no longer in farm use or being used as farmland.

(b) Paragraph (a) of this subsection shall apply only if notice of disqualification is mailed by the county assessor prior to August 15 of the tax year for which the disqualification of the land is asserted.

(2) Notwithstanding ORS 321.960 (3), if, pursuant to subsection (1) of this section, land is disqualified for special assessment as farmland for a tax year, application may be made for purposes of ORS 321.960 at any time within 30 days after the date on the notice of disqualification. [1993 c.5 §2]

Note: 308.391 was added to and made a part of ORS chapter 308 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

308.395 Collection of additional tax from land diverted from farm use; lien.

(1) When land which has received special assessment as farm use land under ORS 308.370 (2) thereafter becomes disqualified for such assessment, the assessor shall notify the owner thereof and there shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, an additional tax equal to the difference between the taxes assessed against the land and the

taxes that would otherwise have been assessed against the land had the land not been in farm use for each of the last five years (or such lesser number of years, corresponding to the number of years of farm use assessment applicable to such property) preceding the year in which the land was disqualified for farm use assessment.

(2) In cases where the designation of specially assessed farmland is removed as a result of a sale or transfer described in ORS 308.390 (2)(b), the lien for such increased taxes and any applicable interest shall attach as of the day preceding such sale or transfer.

(3) The amount determined to be due under subsection (1) of this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370. [1963 c.577 §10; 1967 c.93 §2; 1971 c.629 §4; 1973 c.303 §4; 1973 c.503 §10; 1979 c.350 §5; 1981 c.419 §2; 1981 c.791 §10; 1983 c.462 §15; 1987 c.614 §5; 1991 c.459 §126]

308.396 When specially assessed land not subject to additional tax. (1) No additional tax shall be collected under ORS 308.395 or 308.399 from an owner of land that has received special assessment as farm use land under ORS 308.370 if the land becomes disqualified for such special assessment because the land is acquired:

(a) By a governmental agency as a result of the lawful exercise of the power of eminent domain or the threat or imminence thereof;

(b) By purchase, agreement or donation under ORS 390.121;

(c) By a city, county or park and recreation district organized under ORS chapter 266 for public recreational purposes or for the preservation of scenic or historic places; or

(d) For wildlife management purposes under ORS 496.146.

(2) No additional tax shall be collected under ORS 308.395 or 308.399 upon land described in ORS 273.655 (6), upon land acquired under ORS 390.121 or upon land acquired for wildlife management purposes under ORS 496.146 that has received special assessment as farmland under ORS 308.370, special assessment under ORS 307.110 or special assessment as forestland or small tract under ORS chapter 321 when the lease under which the land was assessed is terminated.

(3) Subsection (2) of this section applies to all land described therein upon notice to the county assessor by the Oregon Department of Administrative Services, the State Parks and Recreation Department or the State Department of Fish and Wildlife re-

ardless of when the assessment was made or the lease terminated.

(4) No additional tax shall be collected under ORS 308.395 or 308.399 upon an owner of land that has received special assessment as farm use land under ORS 308.370, if the land becomes disqualified for such special assessment when it is acquired and used as follows:

(a) The land is registered under ORS 273.581 as a natural heritage conservation area;

(b) The land is acquired by a private nonprofit corporation;

(c) The land is retained by the corporation, or transferred to the state by the corporation, for the purpose of educational, scientific and passive recreational use consistent with conservation of the ecological values and natural heritage elements of the area;

(d) If the land is retained by the corporation, it remains open to the public without charge for the uses described in paragraph (c) of this subsection; and

(e) The land is managed pursuant to a voluntary agreement under ORS 273.581 (5).

(5) The additional taxes and interest that would have been collected at the time of disqualification shall be collected when the land is no longer used as described in subsection (4) of this section. [1975 c.551 §§2,3; 1977 c.606 §1; 1979 c.689 §14; 1983 c.599 §§8, 9; 1985 c.607 §1; 1987 c.158 §46; 1989 c.904 §31; 1991 c.459 §127; 1991 c.816 §19]

Note: 308.396 to 308.406 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.397 Special assessment for zoned farmland effective until land is disqualified; "potential additional tax liability" notation. (1) The county assessor shall assess land within an exclusive farm use zone established under ORS 215.010 to 215.190 and 215.402 to 215.438 or 227.215 to 227.300, and which is used exclusively for farm use as defined in ORS 215.203 (2), at the special assessment provided in ORS 308.370 (1) and also shall enter on the assessment and tax roll the notation "potential additional tax liability," until the land becomes disqualified for such assessment.

(2) Land within an exclusive farm use zone shall be disqualified by:

(a) Removal of the special assessment by the assessor upon the discovery that the land is no longer being used as farmland; or

(b) Removal of the land from any exclusive farm use zone.

(3) Notwithstanding subsection (2)(a) of this section, the county assessor shall not disqualify land that has been receiving special assessment if the land is not being farmed because of:

(a) The effect of flooding that substantially precludes normal and reasonable farming during the year; or

(b) Severe drought conditions are declared under ORS 536.700 to 536.780. [1973 c.503 §5; 1981 c.419 §3; 1985 c.604 §5; 1993 c.19 §11]

Note: See notes under 308.372 and 308.396.

308.398 Additional taxes deemed imposed in tax year to which taxes relate. Additional taxes collected under ORS 308.395, 308.399 or 321.960, shall be deemed to have been imposed in the year to which the additional taxes relate. [1991 c.459 §129a]

Note: See note under 308.396.

308.399 Additional tax when land disqualified for special assessment; exceptions. (1) Except as otherwise provided in subsections (3) and (4) of this section or in ORS 308.396, when land which has received special assessment as farm use land under ORS 308.370 (1) thereafter becomes disqualified for such assessment under ORS 308.397, the assessor shall notify the owner thereof and there shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, an additional tax equal to the difference between the taxes assessed against the land and the taxes that would otherwise have been assessed against the land had the land not been in farm use for each of the last 10 years (or such lesser number of years, corresponding to the years of farm use zoning applicable to such property) preceding the year in which the land was disqualified for farm use assessment.

(2) The amount determined to be due as an additional tax under subsection (1) of this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(3) No amount shall be collected under subsection (1) of this section from an owner of land that has received special assessment as farm use land under ORS 308.370 (1), if the land becomes disqualified for such special assessment because the land ceases to be located within the boundaries of an exclusive farm use zone as the result of a change in the boundaries of the zone or removal of the zone following an action by the governing body of the county or city that:

(a) Was not requested or initiated by the owner of the land; or

(b) Was requested by:

(A) The State Parks and Recreation Department for public park purposes under ORS 390.121; or

(B) The State Department of Fish and Wildlife for wildlife management purposes under ORS 496.146.

(4) In making the computation of additional tax under subsection (1) of this section, the phrase "five years" shall be substituted for the phrase "10 years" if the land, upon disqualification for special assessment, is located within an urban growth boundary.

(5) As used in this section, "urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3). [1973 c.503 §6; 1979 c.350 §6; 1981 c.791 §4; 1985 c.607 §2; 1989 c.904 §32; 1991 c.459 §129]

Note: See note under 308.396.

308.400 Historic cemeteries within an exclusive farm use zone; partitioning; effect of disqualification for farm use; way of necessity. (1) Any land that has received special assessment as farmland pursuant to ORS 308.370 (1), has been used as a cemetery at any time between 1810 to 1950, contains fewer than 50 marked graves, is less than one acre in size and was issued a patent, whether recorded or unrecorded, before 1900 may be partitioned from a parcel that shall continue to qualify for special assessment. The parcel that continues in special assessment and the partitioned cemetery shall not be subject to the provisions of ORS 308.399 as a result of partitioning under this section.

(2) Notwithstanding the procedures set forth in ORS 376.155 to 376.200, a way of necessity for nonmotorized conveyance is established to any parcel that meets the criteria described in subsection (1) of this section. [1991 c.712 §1]

Note: See note under 308.396.

308.401 Certain district assessments inapplicable while zoned land qualified for farm use assessment. (1) Except as otherwise provided in subsection (2) of this section, the assessments and levies of the following taxing units and special districts shall not be imposed while such lands remain qualified for special assessment for farm use under ORS 308.370 (1):

(a) Sanitary districts formed under ORS 450.005 to 450.245.

(b) Domestic water supply districts formed under ORS chapter 264.

(c) Water authorities, sanitary authorities or joint water and sanitary authorities formed under ORS 450.600 to 450.989.

(2) Subsection (1) of this section does not apply to:

(a) Benefit assessments or special ad valorem tax levies imposed prior to October 5, 1973.

(b) Benefit assessments or special ad valorem tax levies imposed upon homesites situated within a parcel of farm use land. As used in this paragraph, "homesite" means not more than one acre of land upon which are constructed nonfarm dwellings and appurtenances.

(c) Benefit assessments or special ad valorem tax levies imposed subsequent to disqualification of lands for farm use assessment under ORS 308.370 (1). [1973 c.503 §7; 1993 c.577 §19]

Note: See note under 308.396.

308.403 District attorneys to review county zoning ordinances; notice upon determination of unqualified land; assessment pending zone requalification. (1) Each district attorney shall annually review the zoning ordinances of the county of the district attorney to determine if any farm use zone mentioned in the ordinance is not a qualified farm use zone allowing for automatic assessment of farmland within the zone at its farm use value under ORS 308.370 (1). If the district attorney is in doubt as to whether a farm use zone is a qualified farm use zone the district attorney shall request the assistance of the Department of Revenue under ORS 305.110. The district attorney shall promptly notify the county assessor by letter of the findings of the district attorney.

(2) If the assessor discovers any land which has been granted farm use assessment under ORS 308.370 (1) that is not qualified for such assessment because the zone is not a qualified farm use zone, the assessor shall immediately notify the county governing body of this fact.

(3) Within six months from the date the county governing body receives notice from the assessor or from the Land Conservation and Development Commission that a farm use zone is not a qualified farm use zone within the meaning of ORS 308.370 (1), the county governing body shall qualify the zone as an exclusive farm use zone within the meaning of ORS 308.370 (1). The assessor shall continue to assess the land at the special assessment provided in ORS 308.370 (1) until the county governing body qualifies the zone or the land is disqualified under ORS 308.397.

(4) Subsections (1) to (3) of this section shall provide the exclusive procedure for

correcting the erroneous granting of farm use assessment as zoned farmland when the zone is not a qualified farm use zone under ORS 308.370 (1). [1973 c.505 §§3, 4; 1985 c.604 §1]

Note: See note under 308.396.

308.404 Deferral and abatement of additional taxes when farmland is disqualified; termination of abatement; penalty for failure to notify assessor of higher use change. (1) If on July 1 of any year any farmland assessed under ORS 308.370 (2) has become disqualified for assessment as farm use because of any requirement of ORS 308.372 and 308.407, the collection of the additional taxes and interest under ORS 308.395 shall be deferred, but only if each year for a period of five consecutive years (or such lesser number of years in which farm use assessment was in effect prior to disqualification) beginning on July 1 of the first year the land became so disqualified, the land is used as farmland (which includes for the purposes of this section the growing of forest products). As the limited use is continued and completed each year, additional taxes and interest are abated on the basis of an abatement of one year's additional tax for each year of limited use beginning with the oldest year for which additional taxes are due for up to five years (or the number of years for which farm use assessment was in effect, whichever is less). Beginning on the July 1 the land became so disqualified the land shall be assessed at its real market value or as otherwise provided by law without regard to any special assessment laws.

(2) If at any time prior to the expiration of the five-year (or lesser) period specified in subsection (1) of this section the land is used for a higher and better use than farmland, the abatement process shall terminate, and there shall be added to the tax extended against the land on the next general property tax roll, (to be collected and distributed in the same manner as the remainder of the real property tax) the additional taxes and interest that still remain deferred and unabated under subsection (1) of this section.

(3) When land described in this section is used for a higher and better use than farmland during the five-year (or lesser) period described in subsection (1) of this section, the owner shall notify the county assessor before the following July 1 of the change in use. If notice is not given, the assessor shall add a penalty of 20 percent of the amount computed under subsection (2) of this section to the total amount computed.

(4) The amount determined to be due under this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS

311.370. [1977 c.339 §2; 1979 c.350. §7; 1981 c.791 §2; 1991 c.459 §130]

Note: See note under 308.396.

308.405 [Renumbered 308.409]

308.406 Application upon requalification; continuation of liability for taxes and interest not abated. If during the period specified in ORS 308.404, the farmland again meets the test of ORS 308.372 and 308.407, the owner may apply to the assessor on or before April 1 of the next calendar year, in the manner provided in ORS 308.375, for farm use assessment. If satisfied that the requirements of ORS 308.372 and 308.407 have been met, the assessor shall restore farm use assessment to the land. The potential additional taxes and interest for all years not already abated under ORS 308.404 shall continue as a potential liability against the land under ORS 308.395 and 308.404, except that each oldest year of potential liability shall abate as the total of all other years of potential additional tax liability for prior years reaches five. [1977 c.339 §3; 1981 c.791 §3; 1991 c.459 §131]

Note: See note under 308.396.

308.407 Income requirements for farmland not in an exclusive farm use zone; notice to owners. (1)(a) The income requirements of ORS 308.372 (1) for the farm unit for the calendar years beginning before 1992 are as provided in subsection (3) of this section.

(b) The income requirements of ORS 308.372 (1) for the farm unit for calendar years 1992 and thereafter are as provided in subsection (4) of this section.

(2) For purposes of ORS 308.372 (1) and this section:

(a) "Farm parcel" means the contiguous land under the same ownership whether assessed as one or more than one tax lot.

(b) "Gross income" shall be determined in accordance with ORS 308.372 (2).

(c) "Owner" or "ownership" means any person described under ORS 308.375 (2)(b)(A), (B), (D) or (E) and spouse or other person who is also an owner as tenant in common or other joint ownership interest.

(3) The income requirements of ORS 308.372 (1) for a farm unit for calendar years before 1992 are as follows:

(a) If the farm unit consists of less than five acres, the gross income amount required by ORS 308.372 (1) shall be at least \$500.

(b) If the farm unit consists of five acres but does not consist of more than 20 acres, the gross income amount required by ORS 308.372 (1) shall be at least equal to the product of \$100 times the number of acres and any fraction of an acre of land included.

(c) If the farm unit consists of more than 20 acres, the gross income amount required by ORS 308.372 (1) shall be at least \$2,000.

(d) In arriving at the number of acres for purposes of this section, the land described in ORS 215.203 (2)(b) and the land, not exceeding one acre, used as a homestead shall not be included.

(4) The income requirements of ORS 308.372 (1) for a farm unit for the calendar years 1992 and thereafter are as follows:

(a) If the farm unit consists of six acres or less, the gross income from farm use required by ORS 308.372 (1) shall be at least \$650.

(b) If the farm unit consists of more than six acres but less than 30 acres, the gross income from farm use required by ORS 308.372 (1) shall be at least equal to the product of \$100 times the number of acres and any fraction of an acre of land included.

(c) If the farm unit consists of 30 acres or more, the annual gross income from farm use required by ORS 308.372 (1) shall be at least \$3,000.

(d) In arriving at the number of acres for purposes of this section, the land described in ORS 215.203 (2)(b) and the land, not exceeding one acre, used as a homestead shall not be included.

(5) If a farm parcel is operated as part of a farm unit and the farmland of the farm unit is not all under the same ownership, the gross income requirements of ORS 308.372 (1) applicable for the farm parcel are as follows:

(a) The farm unit of which the farm parcel is a part must meet the requirements described under subsection (1) of this section whichever are applicable; and

(b) The gross income from farm use of the farm parcel must be at least:

(A) One-half of the gross income requirements described under subsection (1) of this section that would be required if the farm parcel were the only farmland of the farm unit; or

(B) A cash or net share crop rental of one-quarter of the gross income requirements described under subsection (1) of this section that would be required if the farm parcel were the only farmland of the farm unit. For purposes of this paragraph, "net share crop rental" means the value of any crop received by the owner of the farm parcel less any costs borne by the owner of the farm parcel.

(6) As soon as practicable after September 29, 1991, and on or before March 15, 1992, each county assessor shall notify the owner of land assessed at farm use value under ORS 308.370 (2) as of July 1, 1991, of

subsections (1) to (5) of this section and their effects.

(7) The notice given under subsection (1) of this section shall, among other information, contain the following:

(a) An explanation of the income requirements of ORS 308.372 and this section;

(b) An explanation that the failure to meet or have met the income requirements of ORS 308.372 and this section results (A) in disqualification of the land for special assessment at farm use value and return to assessment at real market value and (B) in additional taxes for the last five years based upon the difference in the real market value of the land and the assessed value given the land on account of the special farm use assessment;

(c) An explanation of the deferral and abatement processes accorded under ORS 308.404 for the additional taxes imposed should the farmland fail to qualify for continued assessment as farm use land on account of ORS 308.372 and this section; and

(d) An explanation of the possibility of return under ORS 308.406 from real market value assessment to special assessment as farm use land should the income requirements of ORS 308.372 and this section again be met. [1991 c.459 §§117c to 117g]

Note: 308.407 was added to and made a part of ORS chapter 308 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Procedure When Land is Security for Veteran Farm Loan)

Note: Sections 1 to 4 and section 8, chapter 174, Oregon Laws 1987, provide:

Sec. 1. (1) Not later than January 15 in each year, the Director of Veterans' Affairs shall send to the county assessor in each county a list of each parcel of land in that county that constitutes security for a farm loan made under ORS chapter 407 and Article XI-A, Oregon Constitution.

(2) In addition to the complete list required under subsection (1) of this section, the director shall also send the county assessor a separate list of such parcels of land that were either deleted from or added to the complete list sent to the assessor in the preceding year. [1987 c.174 §1]

Sec. 2. Notwithstanding ORS 307.090, when ownership of any land included in a list sent to a county assessor under section 1 of this Act is transferred to the Director of Veterans' Affairs, the county assessor shall not exempt that land from ad valorem property taxation unless the director requests such exemption. A request for exemption under this section shall be in writing and shall state that the property is eligible for exemption under ORS 307.090 and is not being used for any purpose that makes the property ineligible for such exemption. [1987 c.174 §2]

Sec. 3. (1) When the county assessor intends in the following year to disqualify from assessment at special farm use valuation any parcel of land included on the list sent under section 1 of this Act, the county assessor shall give written notice of the intent to disqualify to

the owner of the land and to the Director of Veterans' Affairs. Notice of intent to disqualify shall be sent to the owner and to the director not later than March 31 in the year prior to the year in which disqualification will occur.

(2) This section applies only to disqualification based on discovery that the land is no longer used exclusively for farm use as defined in ORS 215.203 (2) or on failure to meet any requirement of ORS 308.372 (1) and (2). [1987 c.174 §3]

Sec. 4. (1) When ownership of property that is assessed at special farm use valuation under ORS 308.370 is transferred from the Director of Veterans' Affairs to any person, the person acquiring the property shall:

(a) If the property is situated in a farm use zone, demonstrate to the assessor within one year after acquiring the property from the director that the property is used exclusively for farm use as defined in ORS 215.203 (2).

(b) If the property is not within a farm use zone, make application to the assessor under ORS 308.375 not later than April 1 in the third year following the year in which the property is acquired from the director.

(2) If the person acquiring land assessed at farm use valuation does not comply with the requirements of subsection (1) of this section, the county assessor shall disqualify the land for such assessment. Until land is disqualified under this subsection, it shall be assessed for ad valorem property tax purposes at special farm use valuation.

(3) This section does not apply when land is disqualified:

(a) At the request of the owner;

(b) By removal of land from any exclusive farm use zone; or

(c) For platting the land under ORS chapter 92. [1987 c.174 §4]

Sec. 8. Sections 1 to 4, chapter 174, Oregon Laws 1987, are repealed on January 1, 1996. [1987 c.174 §8(1); 1991 c.269 §1; 1991 c.459 §316c]

INDUSTRIAL PLANTS

308.408 "Industrial plant" defined. As used in ORS 192.501 to 192.505, 305.115, 305.190, 305.420, 305.430, 308.408 to 308.413 and 308.990 (5), "industrial plant" includes:

(1) The land, buildings, structures and improvements, and the tangible personal property, including but not limited to machinery, equipment and office machines and equipment that make up the property or complex of properties used for industrial or manufacturing purposes; and

(2) Any industrial real or personal property eligible for appraisal under ORS 306.126 and the rules of the Department of Revenue. [1981 c.139 §1]

Note: 308.408, 308.411 and 308.413 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.409 [Formerly 308.405; repealed by 1979 c.689 §27]

308.410 [Repealed by 1979 c.689 §27]

308.411 Appraisal and valuation of industrial plants. (1) Except as provided in

subsections (2) to (9) of this section, an industrial plant shall be valued for ad valorem tax purposes under ORS 308.205, 308.232 and 308.235 at its real market value utilizing the market data approach (sales of comparable properties), the cost approach (reproduction or replacement cost of the plant) or the income approach (capitalization of income) or by two or more approaches.

(2) The owner of a plant may elect to have the plant appraised and valued for ad valorem tax purposes excluding the income approach to valuation and excluding taking into consideration functional and economic obsolescence in the utilization of any approach to valuation.

(3) Not less than 30 days prior to the making of a physical appraisal or reappraisal of an industrial plant by the Department of Revenue or by a county assessor, the department or assessor shall notify the owner of the plant by mail, return receipt requested, of the intention to physically appraise the plant. The notice shall inform the owner of the date the appraisal is to commence. In commencing the appraisal and to aid the owner in making an election under subsection (2) of this section, the department's or assessor's appraisers first shall make a preliminary survey of the plant as to the methods and approaches to the valuation of the plant to be used in the appraisal. The owner or owner's representative shall immediately thereafter meet with the appraisers, and within two days after the meeting may give written notice to the appraisers that the owner elects to have the plant valued in accordance with subsection (2) of this section. Failure to make the election precludes the owner from making the election for the tax year in which the valuation determined by the physical appraisal is first used on the assessment and tax rolls of the county.

(4) If an owner does not make an election under subsection (2) of this section, the owner shall make available to the assessor or department all information requested by the assessor or department needed to determine the real market value for the plant. At the request of the owner, the information shall be made the confidential records of the office of the assessor or of the department, subject to the provisions of ORS 305.420 and 305.430.

(5) If an owner makes an election under subsection (2) of this section, the owner shall not in any proceedings involving the assessment of the industrial plant for the tax year for which the election was made, before the county board of equalization, county board of ratio review, the Department of Revenue or the Oregon Tax Court, be entitled to introduce evidence relating to the use of the

income approach or the allowance of functional or economic obsolescence in any approach to valuation of the plant.

(6) On or before May 1 of the tax year in which the election under subsection (2) of this section first applies to an assessment and tax roll, or on or before May 1 of any subsequent tax year, if the owner is dissatisfied with the election under subsection (2) of this section, the owner may request the Department of Revenue or the county assessor, whichever is applicable, to revalue the plant for the next tax year using the appraisal methods set forth in subsection (1) of this section. The owner shall demonstrate that the determination of real market value requires taking into consideration the utilization of the income approach or the allowance of functional or economic obsolescence in any other approach. Thereafter, at the request of the department or the assessor, the owner shall make available to the department or the assessor all information requested by the department or the assessor as provided in subsection (4) of this section within 30 days following the department's or the assessor's request. If the owner fails to provide the information, the election under subsection (2) shall continue, and in any proceedings involving the assessment of the industrial plant for subsequent tax years, before the county board of equalization, county board of ratio review, the department or the Oregon Tax Court, the owner shall not be entitled to introduce evidence relating to the income approach and the allowance of functional and economic obsolescence in any other approach. If the department or assessor makes such a redetermination of the valuation as may, in their opinion, be necessary, the department or assessor shall furnish to the owner prior to the following September 1 a statement of the value of the plant as redetermined by the department or the assessor, with an explanation of the adjustments made.

(7) After any physical appraisal of an industrial plant or after the appraisal is updated for use on the assessment and tax rolls for a subsequent year, but in any event prior to May 1 before the tax year for which the appraisal or update applies, the owner may request a conference with the department or with the assessor concerning the determination of real market value under the physical appraisal or updating of the appraisal. If the request for a conference is made, the department or the assessor shall give written notice to the owner of the time and place for the conference for an informal discussion of the valuation.

(8) Except as provided in this section, no owner of an industrial plant shall be required

to make available to the assessor or department, any itemization of income and expense of the industrial plant for use in an income approach to valuation or for determination of functional or economic obsolescence in any approach to valuation in making an appraisal of an industrial plant for purposes of ad valorem taxation. However, information furnished pursuant to subsection (4) of this section is available to the county assessor and to the department for purposes of preparing valuations of other industrial plants, subject to the provisions of ORS 308.413.

(9) Nothing in this section shall preclude the request for and use of information from an owner of an industrial plant concerning cost items, whether materials, labor or otherwise, for use in the reproduction cost approach to the valuation of the plant. In no event shall the application of subsection (2) of this section operate to value an industrial plant below its real market value for ad valorem tax purposes under ORS 308.205, 308.232 and 308.235. The election of an owner under subsection (2) of this section to forego the consideration of the income approach or the determination of functional or economic obsolescence in any approach to valuation shall constitute an irrevocable waiver of any subsequent claim that the failure of the assessor or the department to consider the income approach or functional or economic obsolescence resulted in a valuation in excess of the real market value of the plant under ORS 308.205, 308.232 and 308.235.

(10) If the owner of an industrial plant has made an election under subsection (2) of this section, no subpoena for the production of income or expense information for the industrial plant may be issued while that election is in effect.

(11) Notwithstanding the provisions of subsection (3) of this section concerning the time for making an election under subsection (2) of this section, if the owner of an industrial plant receives notice under ORS 305.392 that a subpoena will be issued for income or expense information for the industrial plant, and the owner has not previously made an election under subsection (2) of this section that is in effect, the owner may make the election allowed under subsection (2) of this section within the 60-day period specified in ORS 305.392. Any owner making an election under this subsection may not revoke that election until after the industrial plant is next assessed for ad valorem tax purposes. [1981 c.139 §2; 1991 c.459 §132; 1993 c.270 §33; 1993 c.353 §8]

Note: See note under 308.408.

Note: Section 13 (2), chapter 353, Oregon Laws 1993, provides:

Sec. 13. (2) Sections 4, 7, 9, 10, 11 and 12 of this Act and the amendments to ORS 305.190, 305.420 and 308.411 by sections 5, 6 and 8 of this Act first apply to subpoenas issued on or after the effective date of this Act [November 4, 1993]. [1993 c.353 §13 (2)]

308.413 Confidential information furnished under ORS 308.411; exception. (1) Any information furnished to the county assessor or to the Department of Revenue under ORS 308.411 which is obtained upon the condition that it be kept confidential shall be confidential records of the office in which the information is kept, except as follows:

(a) All information furnished to the county assessor shall be available to the department and all information furnished to the department shall be available to the county assessor.

(b) All information furnished to the county assessor or department shall be available to any reviewing authority in any subsequent appeal.

(c) The department may publish statistics based on the information furnished if the statistics are so classified as to prevent the identification of the particular industrial plant.

(2) The Department of Revenue shall make rules governing the confidentiality of information under this section.

(3) Each officer or employee of the Department of Revenue or the office of the county assessor to whom disclosure or access of the information made confidential under subsection (1) of this section is given, prior to beginning employment or the performance of duties involving such disclosure, shall be advised in writing of the provisions of this section and ORS 308.990 (5) relating to penalties for the violation of this section, and shall as a condition of employment or performance of duties execute a certificate for the department or the assessor in a form prescribed by the department, stating in substance that the person has read this section and ORS 308.990 (5), that these sections have been explained to the person and that the person is aware of the penalties for violation of this section. [1981 c.139 §3]

Note: See note under 308.408.

308.415 [Amended by 1967 c.105 §2; 1975 c.780 §7; repealed by 1979 c.689 §27]

DESTROYED PROPERTY

308.425 Taxes on destroyed or damaged property; proration; reduction. (1) If, during any tax year, any real or personal property is destroyed or damaged by fire or act of God, the owner or purchaser under a recorded instrument of sale in the case of

real property, or the person assessed, person in possession or owner in the case of personal property, may apply to the tax collector for proration of the taxes imposed on the property for the tax year in which the property was destroyed.

(2) Application for proration of taxes under subsection (1) of this section shall be made not later than the end of the tax year or 30 days after the date the property was destroyed or damaged, whichever is later.

(3)(a) For property that is totally destroyed, the tax collector shall collect only one-twelfth of the taxes imposed on the property for the tax year, for each month or fraction of a month that the property was in existence during the tax year. The tax collector shall cancel the remainder of the taxes imposed on the property.

(b) For property that is damaged, the tax collector shall collect only one-twelfth of the taxes imposed on the property for the tax year, for each month or fraction of a month that preceded the month during which the property was damaged. For the month in which the property was damaged, and for each month of the tax year thereafter in which the property remains damaged, the tax collector shall collect that percentage of one-twelfth of the taxes imposed on the property that the real market value of the property before the damage bears to the real market value of the property after the damage. The assessor shall advise the tax collector of the value percentage required under this paragraph. The tax collector shall cancel any taxes not to be collected due to this paragraph.

(4) If the damaged property to which this section applies is a manufactured structure that is moved to another county after being damaged, the owner shall advise the tax collector of the new location of the manufactured structure. [1971 c.497 §1; 1974 s.s. c.14 §1; 1975 c.778 §1; 1975 c.780 §20; 1981 c.804 §61; 1983 c.85 §1; 1991 c.459 §132a]

Note: 308.425 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.430 [1971 c.497 §2; repealed by 1974 s.s. c.14 §3]

308.435 [1971 c.497 §3; repealed by 1974 s.s. c.14 §3]

308.440 Relief not allowed in case of arson by property owner. No relief under ORS 308.425 shall be given to any person who is convicted of arson with regard to the property for which relief is sought. [1971 c.497 §4; 1974 s.s. c.14 §2]

Note: 308.440 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

REHABILITATED RESIDENTIAL PROPERTY

308.450 Definitions for ORS 308.450 to 308.481. As used in ORS 308.450 to 308.481:

(1) "Distressed area" means a primarily residential area of a county or city designated by a county or city which, by reason of deterioration, inadequate or improper facilities, the existence of unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multifamily residential units, or any combination of these or similar factors, is detrimental to the safety, health and welfare of the community. Each city or county that adopts, by resolution or ordinance, ORS 308.450 to 308.481, shall adopt rules specifying the process for determining the boundaries of a distressed area and for distressed area boundary changes. At no time shall the cumulative land area within the boundaries of distressed areas within a city or county, whichever is appropriate, determined for purposes of ORS 308.450 to 308.481, exceed 20 percent of the total land area of the city or county.

(2) "Governing body" means the city or county legislative body having jurisdiction over the property for which a limited assessment may be applied for under ORS 308.450 to 308.481.

(3) "Rehabilitation improvements" means modifications to existing structures which are made to achieve a condition of substantial compliance, as defined in subsection (5) of this section.

(4) "Rehabilitated residential property" means land and the improvements thereon:

(a) Which are either single or multifamily residential units or are not residential units but which will become residential units through rehabilitation improvements;

(b) Which fail to comply with one or more standards of the state or local building or housing codes applicable at the time the application is filed;

(c)(A) Which are not less than 25 years of age on January 1, 1986, and on which sums have been expended after September 13, 1975, and prior to July 1, 1998, for the purpose of making rehabilitation improvements, and which sums in the aggregate equal or exceed five percent of the real market value of the land and improvements thereon as reflected in the last certified assessment roll next preceding the date on which the application for limited assessment is filed with the governing body pursuant to ORS 308.462; or

(B) On which, regardless of the age of the residential property, sums have been expended or the renovation completed after October 3, 1989, and prior to July 1, 1998, for the purpose of making rehabilitation improvements, and which sums in the aggregate equal or exceed 50 percent of the real market value of the land and improvements thereon as reflected in the last certified assessment roll next preceding the date on which the applications for limited assessment is filed with the governing body pursuant to ORS 308.462;

(d) Which provide at least 50 percent of their accommodations for residential and not transient occupancy; and

(e) If owner-occupied, which are located within a distressed area.

(5) "Substantial compliance" means compliance with local building or housing code requirements. It shall not mean that all heating, plumbing and electrical systems be replaced with systems meeting current standards for new construction, notwithstanding that the cost of rehabilitation may exceed 50 percent of the value of the structure before rehabilitation. [1975 c.696 §2; 1977 c.472 §1; 1979 c.768 §1; 1981 c.804 §62; 1985 c.320 §1; 1989 c.1051 §6; 1991 c.459 §133]

308.453 Policy. The Legislative Assembly finds that it is in the public interest to encourage the rehabilitation of existing units in substandard condition and the conversion of transient accommodation to permanent residential units and the conversion of non-residential structures to permanent residential units in order to make these units sound additions to the housing stock of the state. The Legislative Assembly further finds that cities and counties of this state should be enabled to establish and design programs to stimulate such rehabilitation and or conversion based on the incentive of a local property tax exemption, which is authorized under ORS 308.450 to 308.481. [1975 c.696 §1a; 1977 c.472 §2; 1979 c.768 §2; 1989 c.1051 §7]

308.455 [Repealed by 1975 c.365 §4]

308.456 Application of ORS 308.450 to 308.481; standards for processing certificate applications. (1) ORS 308.450 to 308.481 apply to rehabilitated residential property located within the jurisdiction of a governing body which adopts, by resolution or ordinance, the provisions of ORS 308.450 to 308.481. Except as provided in subsection (2) of this section, the limited assessment provided by ORS 308.450 to 308.481 only applies to the tax levy of a governing body which adopts the provisions of ORS 308.450 to 308.481.

(2) The limited assessment provided by ORS 308.450 to 308.481 shall apply to the tax

levy of all taxing districts in which property certified for limited assessment under ORS 308.450 to 308.481 is located when, upon request of a governing body which has adopted the provisions of ORS 308.450 to 308.481, the rates of taxation of such taxing districts whose governing boards agree to the policy of limited assessment as provided in ORS 308.450 to 308.481, when combined with the rate of taxation of the governing body which adopts the provisions of ORS 308.450 to 308.481, equal 51 percent or more of the total combined rate of taxation on the property certified for limited assessment.

(3) The governing body shall promulgate standards and guidelines to be utilized in making the determinations required by ORS 308.466 and, in the case of nonowner-occupied residential structures or units, standards and guidelines to be applied if the governing body desires to enter into negotiations with the owner regarding rental rates to be charged during the period of the limited assessment.

(4) ORS 308.450 to 308.481 do not apply to increases in assessed valuation made by the assessor or by lawful order of the Department of Revenue or a court, to a class of property throughout the county or any specific area of the county to achieve the uniformity of assessment or appraisal required by ORS 308.232. [1975 c.696 §§4,12; 1989 c.1051 §8; 1993 c.270 §34]

308.459 Valuation of rehabilitated property not to be increased; effect of filing date of certificate. (1) For purposes of ORS 308.232, the assessed value of rehabilitated residential property shall be not more than its real market value as it appears in the last certified assessment roll next preceding the date on which the application for limited assessment is filed with the governing body as provided in ORS 308.462. If the certificate of qualification is filed with the assessor as provided in ORS 308.466 after June 30, and before August 1, the limited assessment shall apply with respect to the first assessment roll certified after that date or if the certificate of qualification is filed after August 1, and before July 1, the limited assessment shall apply as of the following July 1, and shall continue to apply for a total of 10 consecutive assessment rolls.

(2) Notwithstanding subsection (1) of this section, if the multifamily rehabilitated residential housing is subject to a low income rental assistance contract with an agency of this state or of the United States, the city may extend the limited assessment provided by ORS 308.450 to 308.481 through June 30 of the tax year during which the termination date of the contract falls. [1975 c.696 §3; 1979

c.768 §2a; 1981 c.804 §63; 1985 c.320 §2; 1989 c.1051 §9; 1991 c.459 §134]

308.460 [Repealed by 1975 c.365 §4]

308.462 Qualifications for limited assessment. To qualify for the limited assessment provided by ORS 308.450 to 308.481, the owner shall:

(1) Prior to commencement of rehabilitation improvements, secure from the governing body or its duly authorized agent, verification of noncompliance with code as defined in ORS 308.450 (4)(b);

(2) File an agreement with the governing body, where required by the governing body, between the owner and the governing body to negotiate rental rates to be charged for the rehabilitated rental units during the period of the limited assessment; and

(3) File an application for limited assessment with the governing body which contains any information the governing body deems necessary to determine whether or not the property qualifies for limited assessment. [1975 c.696 §5; 1977 c.472 §3; 1989 c.1051 §10]

308.465 [Repealed by 1975 c.365 §4]

308.466 Processing applications for limited assessment; issuance of certificate; judicial review of application denial. (1) The governing body or its duly authorized agent shall approve or deny an application filed under ORS 308.462 within 90 days after receipt of the application. An application not acted upon within 90 days shall be deemed approved.

(2) Subject to ORS 308.471, the governing body shall complete a certificate of qualification on a form approved by the Department of Revenue and file the certificate with the county assessor. The certificate shall contain a statement by a duly authorized agent of the governing body that the property is in substantial compliance as defined in ORS 308.450, and that the owner of the property has complied with the provisions of ORS 308.471. In addition, the governing body shall file with the county assessor copies of applications filed and deemed approved under subsection (1) of this section, together with copies of those statements filed under ORS 308.462 and 308.471.

(3) If the application is denied, the governing body or its authorized agent shall state in writing the reasons for denial and send the notice to the applicant at the last-known address of the applicant within 10 days after the denial.

(4) Upon denial by a duly authorized agent, an applicant may appeal the denial to the governing body within 30 days after receipt of the denial. Upon denial of the appeal by the governing body, or denial of the application, the applicant may appeal to the

circuit court, and from the decision of the circuit court to the Court of Appeals, as provided by law. [1975 c.696 §6; 1989 c.1051 §11]

308.468 Fee for limited assessment applications; time of payment; disposition. The governing body, after consultation with the county assessor, shall establish an application fee in an amount sufficient to cover the cost to be incurred by the governing body and the assessor in administering ORS 308.450 to 308.481. The application fee shall be paid at the time the application for limited assessment is filed. If the application is approved, the governing body shall pay the application fee to the county assessor for deposit in the county general fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing body shall retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant. [1975 c.696 §11]

308.470 [Amended by 1967 c.105 §3; repealed by 1975 c.365 §4]

308.471 Owner to file statement with governing body when rehabilitation project finished; disqualification of property; judicial review of disqualification determination. (1) Upon completion of the rehabilitation improvements for which an application for limited assessment filed under ORS 308.462 has been approved, the owner shall, if appropriate, file with the governing body the following:

(a) A statement of rents charged for each rental unit for the 12-month period preceding the commencement of rehabilitation improvements, if an agreement has been filed under ORS 308.462 (2);

(b) A statement of the amount of rehabilitation expenditures made with respect to each unit and the composite expenditures made in the rehabilitation of the entire property; and

(c) A statement that the rehabilitation improvements or to the owner's property qualify such property for limited assessment under ORS 308.450 to 308.481.

(2) Within 30 days after receipt of the statements required by subsection (1) of this section, the governing body shall determine whether or not the owner's property is qualified for limited assessment under ORS 308.450 to 308.481.

(3) If the rehabilitation was completed within two years of the date the application for limited assessment was filed under ORS 308.462 and the governing body determines that the owner's property is qualified for limited assessment under ORS 308.450 to 308.481, the governing body shall file the

certificate of qualification required by ORS 308.466 with the county assessor within 10 days after the expiration of the 30-day period provided by subsection (2) of this section.

(4) If the governing body determines that rehabilitation was not completed within two years of the application date or that the owner's property is otherwise not qualified for limited assessment under ORS 308.450 to 308.481, the governing body or its agent shall state in writing reasons why the property is not qualified and send such writing to the owner within 10 days after the determination.

(5) An owner may appeal an adverse determination by the governing body to the governing body within 30 days after receipt of the writing required by subsection (4) of this section. If the governing body rejects the appeal, the owner may appeal to the circuit court, and from the decision of the circuit court to the Court of Appeals, as provided by law. [1975 c.696 §7; 1977 c.472 §4; 1985 c.320 §3; 1989 c.1051 §12]

308.474 Owner to file annual statement regarding rental property transactions if agreement filed under ORS 308.462 (2). If an agreement has been filed under ORS 308.462 (2), within 60 days following the end of the fiscal year as used by the owner for purposes of reporting federal income tax and during the period that the certificate described in ORS 308.466 is in effect, the owner of the rehabilitated property that is nonowner-occupied shall file with a designated agent of the governing body the following:

(1) A statement of occupancy and vacancy of the rehabilitated property during the 12 months ending with the anniversary date;

(2) A statement of all rental rates, and increases in rental rates and operating costs, during the 12 months ending with the anniversary date; and

(3) A certification by the owner that the property has been held continuously for the production of rental income since the date of the certificate approved by the governing body, pursuant to ORS 308.466. [1975 c.696 §8; 1977 c.472 §5; 1989 c.1051 §13]

308.475 [Repealed by 1975 c.365 §4]

308.477 Termination of limited assessment for incomplete construction or noncompliance; appeal; revaluation; tax liability. (1) Except as provided in ORS 308.479, if, after a certificate of qualification has been filed with the county assessor under ORS 308.466, the governing body finds that the rehabilitation improvements were not completed on or before July 1, 1998, or that any provision of ORS 308.450 to 308.481

is not being complied with, or any provision required by the governing body pursuant to ORS 308.450 to 308.481 is not being complied with, it shall give notice in writing to the owner, mailed to the owner's last-known address, of the proposed termination of the limited assessment. The notice shall state the reasons for the proposed termination and shall require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the limited assessment should not be terminated.

(2) If the owner does not appear or appears and fails to show cause why the limited assessment should not be terminated, the governing body shall terminate the limited assessment. A copy of the termination shall be filed with the county assessor and a copy sent to the owner at the owner's last-known address, within 10 days after its adoption.

(3) The owner may appeal the termination to the circuit court, and from the decision of the circuit court to the Court of Appeals, as provided by law.

(4) If no appeal is taken as provided in subsection (3) of this section, or upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.207 to 311.213 to provide for the assessment and taxation of any value not included in the valuation of the rehabilitation improvements during the period of limited assessment prior to termination by the governing body or by a court, in accordance with the findings of the governing body or the court as to the tax year in which the limited assessment is to terminate. The county assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207 to 311.213. Where there has been a failure to comply, as provided in subsection (1) of this section, the property shall be revalued beginning July 1 of the tax year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the month next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered 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.696 §9; 1977 c.472 §6; 1979 c.768 §3; 1981 c.697 §3; 1985 c.320 §4; 1991 c.459 §135]

308.479 Termination of limited assessment for change of use; effect on tax liability. (1) If, after a certificate of

qualification has been filed with the county assessor under ORS 308.466, a declaration defined in ORS 100.005 with respect to the property is presented to the county assessor or tax collector for approval under ORS 100.110 or if the county assessor discovers that a portion of the rehabilitated residential property is changed to a use that is other than residential or housing:

(a) The limited assessment granted to the property or portion under ORS 308.450 to 308.481 shall terminate immediately, without right of notice or appeal;

(b) The property or portion shall be assessed and taxed in the same manner as other property similarly situated is assessed and taxed; and

(c) Notwithstanding ORS 311.220, there shall be added to the general property tax roll for the tax year next following the presentation or discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the amount of tax levied with respect to the property or portion for the tax year for which the property or portion was granted limited assessment and the tax that would have been levied if the property or portion had not been granted limited assessment for that year for each of the years, not to exceed the last 10 years, during which the property was granted limited assessment under ORS 308.450 to 308.481.

(2) If, at the time of presentation or discovery, the property is no longer receiving limited assessment, additional taxes shall be collected as provided in this section, but the number of years that would otherwise be used to compute the additional taxes shall be reduced one year for each year that has elapsed since the year the property was last granted limited assessment beginning with the oldest year for which additional taxes are due.

(3) The assessment and tax rolls shall show "potential additional tax liability" for each property granted limited assessment under ORS 308.341 to 308.481.

(4) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [1981 c.697 §2; 1983 c.630 §1; 1987 c.158 §47; 1987 c.459 §34; 1989 c.1051 §13a; 1991 c.459 §136]

308.480 [Repealed by 1975 c.365 §4]

308.481 Extending deadline for completion of rehabilitation project; grounds. Notwithstanding any provision of ORS 308.477, if the governing body finds that the rehabilitation improvements were not completed by July 1, 1998, due to circumstances beyond the control of the owner, and that the owner had been acting and could rea-

sonably be expected to act in good faith and with due diligence, the governing body may extend the deadline for completion for a period not to exceed 12 consecutive months. [1975 c.696 §10; 1977 c.472 §7; 1979 c.768 §4; 1985 c.320 §5; 1991 c.459 §137]

NONPROFIT HOMES FOR ELDERLY

308.490 Determining value of homes for elderly. (1) The Legislative Assembly finds that ordinary methods of determining the real market value of real property, particularly by consideration of the cost of replacing a structure with a similar and comparable one of equivalent utility, are not appropriate with respect to property of nonprofit homes for elderly persons, operated by corporations described in ORS 307.375. The Legislative Assembly declares that the benefits inherent in operation of these homes, especially in the housing and care furnished to elderly persons for whom this state and its political subdivisions otherwise might be responsible, justifies the use of criteria set out in subsection (2) of this section.

(2) In determining the real market value of the property of a nonprofit home for elderly persons, operated by a corporation described in ORS 307.375, the county assessor shall not take into account considerations of replacement cost, but shall consider:

(a) The amount of money or money's worth for which the property may be exchanged within a reasonable period of time under conditions in which both parties to the exchange are able, willing and reasonably well informed.

(b) The gross income that reasonably could be expected from the property if leased or rented to the public generally, less annual operating expenses, reserves for replacements and insurance, depreciation and taxes.

(c) The relative supply and demand for similar properties.

(d) The relative value of the location of the property. [1969 c.587 §8; 1981 c.624 §12; 1983 s.s. c.5 §7; 1991 c.459 §138]

ASSESSMENT OF DESIGNATED UTILITIES AND COMPANIES BY DEPARTMENT OF REVENUE

308.505 Definitions for ORS 308.505 to 308.660 and 308.705 to 308.730. As used in ORS 308.505 to 308.660 and 308.705 to 308.730:

(1) "Car" includes any vehicle adapted to the rails of a railroad.

(2) "Person," "company," "corporation" or "association" includes any person, group of persons, whether organized or unorganized, firm, joint stock company, association,

cooperative or mutual organization, people's utility district, joint operating agency as defined in ORS 262.005, syndicate, copartnership or corporation engaged in performing or maintaining any business or service or in selling any commodity as enumerated in ORS 308.515 whether or not such activity is pursuant to any franchise.

(3) "Property having situs in this state" includes all property, real and personal, of a company, owned, leased, used, operated or occupied by it and situated wholly within the state, and, as determined under ORS 308.550, 308.555 and 308.640, such proportion of the movable, transitory or migratory personal property owned, leased, used, operated or occupied by such company, including but not limited to watercraft, aircraft, rolling stock, vehicles and cars, and construction equipment, as is used partly within and partly without the state.

(4) "Transportation" includes the carrying, conveying or moving of passengers, commodities, express, mail, rolling stock, cars, vehicles, equipment or any other property from one place to another.

(5) "Vehicle" means any wheeled or tracked device used in transportation under, on or in connection with the physical surface of the earth.

(6) "Communication" includes telephone communication, telegraph communication and data transmission services by whatever means provided. [Amended by 1957 c.711 §1; 1969 c.12 §2; 1973 c.102 §1; 1973 c.722 §12; 1977 c.888 §38]

308.510 "Property" defined; real and personal property classified. (1) "Property," as used in ORS 308.505 to 308.660 and 308.705 to 308.730, includes all property, real and personal, tangible and intangible, used or held by a company as owner, occupant, lessee, or otherwise, for or in use in the performance or maintenance of a business or service or in a sale of any commodity, as set forth in ORS 308.515, whether or not such activity is pursuant to any franchise, and includes but is not limited to the lands and buildings, rights of way, roadbed, water powers, vehicles, cars, rolling stock, tracks, wagons, horses, office furniture, telegraph, telephone and transmission lines, poles, wires, conduits, switchboards, machinery, appliances, appurtenances, docks, watercraft irrespective of the place of registry or enrollment, merchandise, inventories, tools, equipment, machinery, franchises and special franchises, work in progress and all other goods or chattels; but does not include items of intangible property that represent claims on other property including money at interest, bonds, notes, claims, demands and all other evidences of indebtedness, secured or unsecured, including notes, bonds or

certificates secured by mortgages, and all shares of stock in corporations, joint stock companies or associations.

(2) All land of any railroad, logging road, electric rail or trackless transportation company, or railroad switching and terminal company, including land used or held and claimed exclusively as right of way, with all the tracks and substructures and superstructures which support the same, together with all sidetracks, second tracks, turnouts, station houses, depots, roundhouses, engine houses, machine shops, buildings or other structures, without separating same into lands and improvements, is real property and the rolling stock and all other property is personal property.

(3) Without especially defining and enumerating it, all land of any company is real property, and except as provided in subsection (2) of this section, all docks, hangars, landing fields, exchanges, office buildings, bridges, power plants, dams, reservoirs, substations, relay stations, telegraph, telephone or transmission and distribution lines located upon property owned by it, and all other buildings, structures, improvements or fixtures of a permanent character thereon, is real property, and all other property is personal property.

(4)(a) Except as provided in ORS 308.517 (2) and in paragraphs (b) and (c) of this subsection, the renting, leasing, chartering or otherwise assigning of property exclusively for the use or benefit of another shall not constitute a use by the lessor.

(b) A lessor shall be deemed the user of property rented, leased or otherwise furnished by it to its employee as an incident of employment.

(c) A rail transportation company shall be deemed the user of property situated within its station ground reservations or rights of way notwithstanding the fact that such property may be leased, rented or otherwise assigned by it for the use or benefit of another.

(5) Property found by the department to have an integrated use for or in more than one business, service or sale, where at least one such business, service or sale is one enumerated in ORS 308.515, shall be classified by the department as being within or without the definition of property under subsection (1) of this section, according to the primary use of such property, as determined by the department. [Amended by 1957 c.711 §2; 1977 c.602 §2]

308.515 Department to make annual assessment of designated utilities and companies. (1) The Department of Revenue

shall make an annual assessment, upon an assessment roll to be prepared by the division of the department charged with property tax administration, of the following property having a situs in this state:

(a) Except as provided in subsection (2) of this section, any property used or held for its own future use by any company in performing or maintaining any of the following businesses or services or in selling any of the following commodities, whether in domestic or interstate commerce or both, and whether mutually, or for hire, sale or consumption by other persons: Railroad transportation; railroad switching and terminal; electric rail and trackless trolley transportation; sleeping car; refrigerator car; private car; tank car; air transportation; water transportation upon inland waters of the State of Oregon; air or railway express; communication; heating; water; gas; electricity; pipeline; toll bridge.

(b) Refrigeration, tank and private cars of all companies not included in paragraph (a) of this subsection, where such cars are rented, leased or used in railroad transportation for hire.

(2) There shall not be assessed under subsection (1) of this section:

(a) Any property used by or for water transportation companies whose watercraft ply exclusively (A) on the high seas, or (B) between the high seas and inland water ports or termini, or (C) a combination of (A) and (B), or (D) as ferries operating directly across interstate rivers.

(b) Any property used by or for water transportation companies exclusively for hire by other persons for booming and rafting; dredging; log or marine salvage; ship berthing, maintenance, sludge removal, cleaning or repair; marine or water-based construction; or guide service.

(c) Any property used by or for interstate ferries.

(d) Any property of the National Railroad Passenger Corporation so long as federal law prohibits such company from paying ad valorem taxes. All unpaid ad valorem taxes levied prior to October 15, 1983, are void and the taxes shall be removed from the assessment and tax rolls.

(e) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the calendar year, and which is not used to provide scheduled passenger service.

(3) For the purposes of this section, ORS 308.256 and 308.550, "inland water" or "inland waters" shall mean all water or waters within the State of Oregon, all interstate rivers touching Oregon and all tidewaters extending to the ocean bars.

(4) Any corporation included within subsection (1) of this section, to the extent that it actively engages in any business or service not described therein or not incidental to any business or service or sale of a commodity described therein, shall not to that extent be deemed a corporation whose properties are assessed under ORS 308.505 to 308.660 and 308.705 to 308.730.

(5) Any company, to the extent that it furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers, whether or not through pipe in a gaseous form, is not a gas company under subsection (1) of this section. Any company, to the extent that it furnishes water for commercial irrigation, is not a water company under subsection (1) of this section. Any company which generates electricity primarily for its own use, but which makes incidental sales of its surplus electricity, is not an electric company under subsection (1) of this section.

(6) The provisions of ORS 308.505 to 308.660 and 308.705 to 308.730 shall be construed to subject to assessment by the department the property owned, leased or occupied by a legal entity not yet engaged in a business, service or sale of commodity enumerated in this section, which is intended for operation or use in such a business, service or sale of commodity. [Amended by 1955 c.735 §1; 1957 c.711 §3; 1959 c.109 §1; 1965 c.175 §1; 1973 c.102 §2; 1973 c.402 §8; 1981 c.623 §4; 1983 c.600 §1; 1987 c.601 §1]

308.517 To whom property assessed; certain property not to be assessed. (1) Except as provided in subsections (2) and (3) of this section, the Department of Revenue shall assess to the property user all property owned, leased, rented, chartered or otherwise held for or used by it in performing a business, service or sale of a commodity enumerated in ORS 308.515.

(2) Where any property owned, leased, rented, chartered or otherwise assigned by an owner, lessor, lessee or user whose property is otherwise subject to ORS 308.505 to 308.660 and 308.705 to 308.730, is leased, rented, chartered or otherwise assigned for the use or benefit of a company which has or thereby has property subject to ORS 308.505 to 308.660 and 308.705 to 308.730, the department may assess the property to either the owner, lessor, lessee or user.

(3) Land or buildings that meet all of the following conditions shall be assessed in accordance with law by the assessor of the county in which such property is situated:

(a) Situated outside of railroad rights of way or outside of railroad station ground reservations; and

(b) Leased or rented by a lessor whose property is not subject to ORS 308.505 to 308.660 and 308.705 to 308.730, to a company whose property is subject to ORS 308.505 to 308.660 and 308.705 to 308.730; and

(c) Used as or in connection with airport facilities, general offices, ticket offices, business offices, warehouses, service centers, relay stations, garages, central exchanges, moorage grounds, or well, pump house or substations sites.

(4) Except as provided in subsection (3) of this section, any property leased or rented by a lessor whose property is not subject to ORS 308.505 to 308.660 and 308.705 to 308.730, to a company whose property is subject to ORS 308.505 to 308.660 and 308.705 to 308.730, shall be assessed, as determined by the department, by the department or the assessor of the county in which such property is situated.

(5) All property not assessed by the Department of Revenue shall be assessed in accordance with law by the assessor of the county in which such property is situated. [1957 c.711 §5; 1959 c.109 §2]

308.520 Companies to file statements.

Each company shall make and file with the Department of Revenue, on or before February 1 of each year, in such form and on such blanks as the department may provide, a statement, under oath, made by the president, secretary, treasurer, superintendent or chief officer of the company, covering a period of at least one year and not exceeding five years, as may be required by the department; except that class I railroads, class A electric companies, class A telephone companies, class A gas companies, class A water transportation companies, class A water companies, pipeline companies, air transportation companies, telegraph companies and sleeping car, private car, tank car and refrigerator car companies shall file such statement on or before March 15 of each year. [Amended by 1957 c.711 §6; 1977 c.884 §8]

308.522 Supplemental statements of additions and retirements. Each company required to file a statement with the department under ORS 308.520 shall annually file a supplemental statement with the department on or before the due date specified in ORS 308.520. If the company obtains an extension of time within which to file the statement required under ORS 308.520, the supplemental statement shall be filed within the extended period of time. The supplemental statement shall contain estimates of acquisitions and retirements of property of the company to occur between January 1 and July 1 of that year, as specified in rules of the department. The department shall take the estimates of such acquisitions and re-

tirements into account in determining the assessment, as of July 1, of the real market value of that company's property, under ORS 308.540. [1991 c.459 §144b]

Note: 308.522 was added to and made a part of 308.505 to 308.660 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

308.525 Contents of statement. Each statement required by ORS 308.520 shall contain the following facts about the company:

- (1) The name of the company, the nature of the business conducted by the company, and under the laws of what state or country it is organized; the location of its principal office, the name and post-office address of its president, secretary, auditor, treasurer, superintendent, and general manager; the name and post-office address of the chief officer or managing agent or attorney in fact in Oregon.
- (2) The number of shares of its capital stock authorized and issued.
- (3) The par value and market value, or actual value if there is no market value, of each issued share of stock on January 1 at 1:00 a.m. of the year in which the report is made.
- (4) The bonds and other corporate obligations owing by the company.
- (5) The par value and market value, or actual value if there is no market value, of the bonds or other obligations owing by the company on January 1 at 1:00 a.m. of the year in which the report is made.
- (6) A detailed statement of the real property owned by the company in Oregon on January 1 at 1:00 a.m. of the year in which the report is made, where situated, and the cost thereof.
- (7) A detailed statement of the personal property owned by the company in Oregon on January 1 at 1:00 a.m. of the year in which the report is made, where situated, and the cost thereof.
- (8) A statement showing the cost of all of the real property owned by the company as of January 1 at 1:00 a.m. of the year in which the report is made, whether situated within or without the state.
- (9) A statement showing the cost of all of the personal property of the company as of January 1 at 1:00 a.m. of the year in which the report is made, whether situated within or without the state.
- (10) A full and complete statement of the cost and book value of all buildings of every description owned by the company within the state.

(11) The total length of the company's lines or operational routes, the length of its lines or operational routes within the State of Oregon, and also the length of its lines or operational routes without the State of Oregon, including those which the company controls or uses as owner, lessee or otherwise.

(12) A statement of the number of wire, pipe, pole or operational miles, and miles of main and branch railroad lines, double track, spurs, yard tracks and sidetracks, owned or leased by the company in each county in this state, and each municipal subdivision thereof, stated separately.

(13) A statement in detail of the entire gross receipts and net earnings of the company from all sources, stated separately, for the fiscal year next preceding the date of the report.

(14) Any other facts or information the department requires in the form of return prescribed by it. [Amended by 1957 c.711 §7]

308.530 Company not relieved from making other reports. The statements provided for in ORS 308.505 to 308.660 and 308.705 to 308.730 shall not relieve the company from making any other report or statement required by law to be made to any other commission, board or officer.

308.535 Extension of time for making reports or statements; proceeding in case of failure or refusal to furnish statement or information. The department, for good cause, may allow a reasonable extension of time for filing any report or statement required in ORS 308.505 to 308.660 and 308.705 to 308.730. If a company fails to make any statement or furnish any information required by ORS 308.505 to 308.660 and 308.705 to 308.730, the department shall inform itself as best it may as to the matters necessary to be known in order to discharge its duties with respect to the property of the company.

308.540 Department to prepare assessment roll; date as of which value assessed; when roll final. The Department of Revenue shall prepare each year an assessment roll, in which shall be assessed, as of July 1 at 1:00 a.m. of such year, the real market value of all the properties of the several companies subject to taxation under ORS 308.505 to 308.655 and 308.705 to 308.730. The assessment roll shall not be final until reviewed as provided in ORS 308.580 to 308.610. [Amended by 1991 c.459 §145]

308.545 Mode of valuing property. For the purpose of arriving at the amount and character and real market value of the property belonging to a company, the department personally may inspect the property, and may take into consideration the statements filed

under ORS 308.505 to 308.660 and 308.705 to 308.730, the reports, statements or returns of the company filed in the office of any board, office or commission of this state, or any county thereof, the earning power of the company, the franchises and special franchises owned or used by the company, and such other evidence of any kind that is obtainable bearing thereon. However, no report, statement or return shall be conclusive upon the department in arriving at the amount and character and real market value of the property belonging to the company. [Amended by 1991 c.459 §146]

308.550 Valuing property of company operating both within and without state.

(1) When a company owns, leases, operates over or uses rail, wire, pipe or pole lines, operational routes or property within and without this state, if the department values the entire property within and without this state as a unit, it may ascertain the property subject to taxation in Oregon by the proportion which the number of miles of rail, wire, pipe or pole lines or operational routes in Oregon, controlled or used by the company, as owner, lessee, or otherwise, bears to the entire mileage of rail, wire, pipe or pole lines or operational routes controlled or used by the company, as owner, lessee, or otherwise.

(2) If the value of any property having a situs in this state, of a company operating both within and without the state, cannot fairly be determined in the manner prescribed in subsection (1) of this section, the department may use any other reasonable method to determine the proper proportion of the entire property assessable for taxation in this state.

(3) The real market value of the property of a water transportation company apportioned or allocated to Oregon shall not reflect so much of the value of its watercraft as is fairly attributable to voyages made by such watercraft exclusively on the high seas or between inland water ports or termini and the high seas. Voyages made to Oregon ports for the sole purpose or purposes of picking up or discharging company personnel, making repairs, refitting, or taking on supplies shall not be used for allocation or apportionment purposes. [Amended by 1955 c.735 §2; 1991 c.459 §147]

308.555 Unit valuation of property. The department, for the purpose of arriving at the real market value of the property assessable by it, may value the entire property, both within and without the State of Oregon, as a unit. If it values the entire property as a unit, either within or without the State of Oregon, or both, the department shall make deductions of the property of the company situated outside the state, and not

connected directly with the business thereof, as may be just, to the end that the fair proportion of the property of the company in this state may be ascertained. If the department values the entire property within the State of Oregon as a unit, it shall make deductions of the property of the company situated in Oregon, and assessed by the county assessors, to an amount that shall be just. For that purpose the county assessors shall, if the department so requests, certify to the department the real market value of the property of the companies assessable by them, but such certification of real market value is intended to be advisory only and is not conclusive upon the department. [Amended by 1981 c.804 §64; 1991 c.459 §148]

308.558 Taxation of aircraft; criteria; apportionment. (1) Aircraft shall be subject to assessment, taxation and exemption, as provided in this section.

(2) Any aircraft used or held for use by an air transportation company that is operating pursuant to a certificate of convenience and necessity issued by an agency of the Federal Government shall be assessed and taxed under ORS 308.505 to 308.560.

(3) Any aircraft used or held for use by an air transportation company to provide scheduled passenger service, whether or not the company is operating pursuant to a certificate of convenience and necessity issued by a federal agency, shall be assessed and taxed under ORS 308.505 to 308.560.

(4) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the calendar year is exempt from ad valorem property taxation for the tax year beginning in the calendar year.

(5) Subject to allocation or apportionment for out-of-state service, all other aircraft not otherwise specifically exempt from taxation or licensed in lieu thereof, and not subject to assessment by the Department of Revenue under ORS 308.505 to 308.560, shall be assessed in the county from which they are customarily operated when not in service, or if there is no customary place from which operated, then in the county in which their owner or owners reside, or if neither situs applies, then in the county in which any one of the owners maintains a place of business. [1987 c.601 §4; 1993 c.18 §70]

308.560 Assessment roll; contents; description of property; effect of errors, mistakes and omissions. (1) The assessment roll for the companies assessed under ORS 308.505 to 308.660 and 308.705 to 308.730 shall be prepared in a manner prescribed by the Department of Revenue.

(2) Upon the assessment roll shall be placed, after the name of each of the compa-

nies assessed under ORS 308.505 to 308.660 and 308.705 to 308.730, a general description of the properties assessed in the name of each such company as provided in ORS 308.517, which descriptions shall be deemed to include all the properties of the companies liable to assessment for taxation under ORS 308.505 to 308.660 and 308.705 to 308.730. The description may be in the language contained in ORS 308.510, or otherwise, or may refer to an order or a memorandum of the Department of Revenue containing such description, which order or memorandum shall constitute a public record.

(3) No assessment shall be invalidated by a mistake in the name of the company assessed or by an omission of the name of the owner, or the entry of a name other than that of the true owner, if the property is generally correctly described. If the name of the true owner, or the name of the owner of record, lessee, or user of any property assessable under ORS 308.505 to 308.660 and 308.705 to 308.730 is given, the assessment shall not be held invalid on account of any error or irregularity in the description, if the description would be sufficient in a deed or conveyance from the owner, or on account of which in a contract to convey, a court with jurisdiction to grant equitable remedies would require a conveyance to be made, reading the description in connection with the definition of property assessable under ORS 308.505 to 308.660 and 308.705 to 308.730.

(4) Whenever possible, there shall be placed on the assessment roll, under the name of the company, under an appropriate heading, the aggregate track mileage, miles of wire, pipe or pole line or of operational route, as the case may be, within the State of Oregon. [Amended by 1957 c.69 §1; 1957 c.711 §8; 1979 c.284 §136]

308.565 Apportionment of assessment between counties. (1) For the purpose of determining the respective amounts of the assessment of any company, under ORS 308.505 to 308.660 and 308.705 to 308.730, that shall be apportioned to the several counties in this state, into or through which the rail lines of the company extend or are operated, the Department of Revenue shall multiply the values per mile, as ascertained pursuant to ORS 308.570, of the several main and branch lines by the number of miles of such main and branch lines, respectively, including miles of main tracks, spurs, yard tracks and sidetracks, in each of the counties, as reported by the company, or as otherwise ascertained and determined by the department.

(2) Values distributed over wire, pipe or pole lines or operational routes shall be ap-

portioned to the counties in which the lines or routes are situated by multiplying the rate per mile in each case, determined pursuant to ORS 308.575, by the number of miles of the wire, pipe or pole lines or operational routes in each county, respectively.

(3) If the property of any company assessable under ORS 308.505 to 308.660 and 308.705 to 308.730 is of such a character that its value cannot reasonably be apportioned on the basis of rail, wire, pipe, pole line or operational route mileage, the department may adopt such other method or basis of apportionment to the county or counties in which the property is situated as may be feasible and proper.

(4) As determined by the department values of electric power plants and water powers, connected with or used in the operation and business of any company, assessable under ORS 308.505 to 308.660 and 308.705 to 308.730, may be apportioned to the counties in which the same are situated, in such manner as the department deems reasonable and fair.

(5) Assessments of the mobile property of air transportation companies shall be allocated and apportioned to those counties only in which the air transportation companies make service landings. For aircraft less than 75,000 pounds gross taxi weight, the department shall allocate and apportion to the counties 60 percent of the value which would otherwise be allocated and apportioned.

(6) Assessments of water transportation companies shall be allocated and apportioned to those counties in which such companies use or maintain ports or termini including off-shore anchorages; but, for the purposes of ORS 308.505 to 308.660 and 308.705 to 308.730, the taxing districts to which assessments are apportioned by the county assessor shall be deemed to extend to the center of any river channel or to the ocean bar. [Amended by 1957 c.711 §9; 1987 c.601 §2]

308.570 Determining value per mile of main and branch lines of companies using rail lines. In the assessment of the property of any company conducting transportation or operating over rail lines, except any sleeping car, refrigerator car, tank car or private car company, the real market value of whose personal property is less than \$300,000, the Department of Revenue shall determine the value of each branch line of the company situated within this state and the mileage of such branch line, including miles of main tracks, spurs, yard and sidetracks, and shall determine the values per mile of such branch line by dividing its value by the mileage thereof. The department shall deduct the total amount so determined as the value of branch lines from the total

value of the property of the company, assessable under ORS 308.505 to 308.660 and 308.705 to 308.730, and shall determine the values per mile of the main line of such company by dividing the remainder by the number of miles of the main line, taking into consideration miles of main tracks, spurs, yard and sidetracks. Each mile of spurs, yard and sidetracks shall be valued at not to exceed 50 percent of the value per mile assigned to the main track of the branch or main line with which they are connected. [Amended by 1969 c.102 §2; 1991 c.459 §151]

308.575 Determining value per mile of property of companies using wire, pipe or pole lines or operational routes. In the assessment of the property of any company owning, operating over or using wire, pipe or pole lines or operational routes, the real market value thereof may in the discretion of the department be apportioned over the wire, pipe or pole lines or operational routes in such manner and at such rate or rates per mile as the department shall determine to be reasonable and fair. [Amended by 1981 c.804 §65; 1991 c.459 §152]

308.580 Notice of meeting to review tentative assessment roll; persons interested to appear. (1) The Department of Revenue shall give public notice by three weekly publications in some newspaper printed at the state capital, setting forth that it will attend in its office at the capital of the state on the second Monday in June and publicly examine the tentative assessment roll made by it and review the same, and correct all errors in valuation, description, quantities or qualities of property by it assessable and in apportionments of assessments made by it.

(2) The persons and companies interested shall appear at the time and place appointed. Proof of the notice may be made by affidavit as by law provided, filed with the director on or before the day on which the department shall convene. [Amended by 1991 c.459 §152a]

308.585 Delivery of tentative assessment roll to director. The administrator of the division charged with the responsibility of preparing the annual assessment roll required by ORS 308.515, shall appear at the director's office at the capital of the state on the second Monday of June in each year and shall then deliver to the director the tentative assessment roll prescribed in ORS 308.540 to 308.575. [Amended by 1969 c.520 §30; 1973 c.402 §9; 1991 c.459 §152b]

308.590 Review and correction of roll; apportionment to county. (1) The Director of the Department of Revenue shall:

(a) Review, examine and correct the assessment roll made pursuant to ORS 308.515 on behalf of the department.

(b) Increase or reduce the valuation of property therein assessed so that the valuation is the real market value of the property.

(c) Assess omitted taxable property by it assessable, in the manner provided in subsection (3) of this section.

(d) Correct errors in apportionments of assessments therein.

(2) If it appears to the director that there is any real or personal property which, by law, the department is permitted to assess, which has been by it assessed twice, or incorrectly assessed as to description, quantity or quality, or assessed in the name of a person or company not the owner, lessee or occupant thereof, or assessed under or beyond the actual real market value thereof, or which is not assessable by the department but which has been assessed by it, the director may make proper corrections of the roll.

(3) If it appears to the director that any real or personal property which is assessable by the department has not been assessed upon the assessment roll, the director shall assess such property at the real market value thereof.

(4) The property assessable by the department within any county shall be apportioned by the department to such county at its real market value or at the percentage thereof finally adopted under ORS 309.035. [Amended by 1959 c.519 §2; 1967 c.293 §10; 1969 c.520 §31; 1971 c.377 §1; 1973 c.402 §10; 1991 c.459 §153]

308.595 Notice when valuation increased or omitted property placed on roll; notice; appeal. (1) The director, while reviewing and apportioning the assessment roll, shall not increase the valuation of any property on the assessment roll or add omitted property thereto without giving to the company or person in whose name it is assessed at least six days' written notice to appear and show cause, if any, why the valuation of the assessable property of such company or person, or some part thereof, to be specified in the notice, shall not be increased, or why the property should not be added to the roll; but a notice shall not be necessary if the person or company appears voluntarily before the director and is there notified by the director that the property of the person or company, or some specified part thereof is, in the opinion of the director, assessed below its real market value or has been omitted from the roll.

(2) Not later than 20 days prior to the day the director is required by law to review the roll, the department shall mail to each

company assessed by it notice of the amount it has placed or intends to place on the roll as the assessment of the company's property. The notice shall be mailed to the last-known address of the company. Failure of the department to mail such notice shall not invalidate any assessment. From and after the date of such notice the department shall maintain in its office at Salem for the inspection of the company the tentative assessment and apportionment of its assessment to the several counties.

(3) Appeal from the notice of assessment may be taken to the Director of the Department of Revenue for reduction or correction in the valuation or apportionment of a particular assessment. An appeal of the value contained in the notice must be filed no later than the second Monday in June, prior to the July 1 assessment date. If the department fails to mail the notice at the time provided in subsection (2) of this section, the time for filing an appeal shall be extended for 10 days after the second Monday in June. The director shall hold hearings and issue orders on all appeals under this subsection. The director shall issue the orders no later than the following July 15.

(4) An appeal for reduction or correction in the valuation of a particular assessment due to changes in the real market value of the property occurring after July 1, and on or before June 30 of any tax year, including changes in the property that differ from the additions and deletions reported under ORS 308.522, may be filed with the Director of the Department of Revenue no later than July 15 of the next tax year. The director must hold hearings and issue orders on all appeals under this subsection. The director shall issue the orders no later than the following August 31.

(5) The provisions of ORS chapter 305 shall apply to appeals to the director and to the Oregon Tax Court. [Amended by 1955 c.735 §3; 1957 c.325 §2; 1967 c.78 §4; 1969 c.520 §32; 1977 c.870 §35; 1991 c.459 §154; 1993 c.270 §35]

308.600 Examination of rolls; when completed. The director, sitting for the purpose of reviewing and apportioning the assessment roll, shall continue sessions from day to day, exclusive of Sundays and legal holidays, until the examination, review, correction, equalization and apportionment of the roll is completed; but the director shall complete the examination, review, correction, equalization and apportionment within one month from the time the director is by law required to begin examination of the roll. Unless sooner completed, at the expiration of one month from the time the director receives the roll under ORS 308.585, the examination, review, correction, equal-

ization and apportionment of the assessment roll shall be deemed to be complete. [Amended by 1969 c.520 §33; 1973 c.402 §11]

308.605 Entry of corrections and changes; record of meetings. (1) Corrections, additions to or changes in the roll shall be entered in a separate part of the roll headed substantially, "as reviewed," and the entries in such separate part shall be the record of the action of the department.

(2) The meetings, sittings and adjournment of the department, sitting for the purpose of review, shall be recorded in its journal. [Amended by 1957 c.69 §2]

308.610 Oath of director upon completion of review. Upon completion of the review of the roll as provided in ORS 308.580 to 308.605, the Director of the Department of Revenue shall take and subscribe to an oath similar to the oath required for assessors under ORS 308.320. The oath shall be filed with the Secretary of State.

308.615 Keeping roll on file as public record. The roll, when examined, reviewed, corrected, equalized and apportioned, shall be kept on file in the office of the Department of Revenue as a public record.

308.620 [Amended by 1955 c.735 §4; 1961 c.533 §48; repealed by 1977 c.870 §59]

308.625 [Amended by 1955 c.735 §5; 1957 c.325 §3; repealed by 1961 c.533 §57]

308.630 [Amended by 1955 c.735 §6; 1961 c.533 §49; repealed by 1977 c.870 §59]

308.635 When assessment complete; certifying to assessors; apportioning by assessor; levy and collection of taxes. (1) The assessment roll having been reviewed by the Department of Revenue, the assessments therein shall be considered complete.

(2) Except as otherwise provided in ORS 308.640, the department immediately shall certify to the assessor of each county in which the property of any company so assessed is situated, the number of miles of main and branch lines of the company, including miles of main tracks, spurs, yard and sidetracks, or the number of miles of wire, pipe or pole lines or operational routes, as the case may be, and the real market value or values apportioned to the county. The assessor shall apportion the amount or amounts so certified to the municipal corporations and taxing districts of the county by multiplying the value per mile of each such main and branch rail line, and of spurs, yard and sidetracks connected therewith, or the value per mile of each wire, pipe or pole line or operational route by the mileage thereof in each of the municipal corporations and taxing districts, and shall enter the assessments so certified and apportioned in the assessment roll.

(3) The real market value of any property assessed by the department and apportioned on a basis other than that of rail, wire, pipe or pole line mileage or operational route mileage, shall be certified in similar manner to the county assessor and shall be entered in the county assessment roll, with allocation to the municipal corporations and taxing districts in which such property is situated.

(4) Taxes shall be levied and collected on assessments of properties so made, certified and apportioned in the same manner as taxes on other properties are levied and collected and at the same time and by the same officers. [Amended by 1979 c.241 §34; 1981 c.804 §66; 1983 s.s. c.5 §8; 1985 c.613 §10; 1991 c.459 §155]

308.640 Procedure where real market value of certain car companies is less than \$300,000. (1) When the assessment of the personal property of any sleeping car, refrigerator car, tank line or private car company, made and equalized by the Department of Revenue, is in a real market value of less than \$300,000, the department shall determine the assessed value thereof by multiplying such real market value by the average ratio of assessed value to real market value of all properties of such companies in a real market value of \$300,000 or more, as computed and determined by the department for the current year. The department then shall determine the tax to be charged on the property covered by each such assessment as follows:

(a) Taxes to be credited to the county school funds shall be calculated by applying to the assessed value of the property the average school tax rate in the state for the immediately prior tax year, applying to the assessed values of the personal properties of all other sleeping car, refrigerator car, tank line and private car companies, as compiled and determined by the department for such year.

(b) Taxes to be credited to the county general funds shall be calculated by applying to the assessed value thereof the average non-school tax rate in the state for the immediately prior tax year, applying to the assessed values of the personal properties of all other sleeping car, refrigerator car, tank line and private car companies, as compiled and determined by the department for such year.

(c) The taxes determined under this subsection shall not be imposed in an amount that exceeds the limits established in ORS 310.150 for any year.

(2) The Department of Revenue hereby is empowered to charge, levy and collect the tax so determined on the personal property of any such company having a taxable situs

in this state. Each tax so charged and levied shall constitute a lien as of July 1 of the tax year on all the personal property of the company within this state and shall be payable in the same manner, at the same due dates and with the same rates of discount or interest provided by law in respect to taxes on personal property payable in the several counties. In collecting such taxes, the Department of Revenue may pursue any or all of the rights, remedies or processes provided by law for the collection of delinquent taxes on personal property and, in connection therewith, the department shall have, in any county, the power and authority of the sheriff and tax collector thereof.

(3) All moneys collected by the department under this section shall be remitted to the treasurers of the several counties in the same proportion that taxes levied and apportioned to each county upon the cars of subject companies having a real market value exceeding \$300,000 bear to the total amount of taxes levied upon the cars of such companies. The taxes so received by the treasurers shall be credited to the county school fund and general fund of the county as directed by the department.

(4) Real property of such companies shall be apportioned to the several counties according to the situs thereof. [Amended by 1955 c.208 §1; 1959 c.109 §3; 1963 c.238 §1; 1969 c.102 §1; 1977 c.884 §9; 1991 c.459 §156]

308.645 Reports by companies of mileage to county assessors. Each county assessor may require, and it is hereby made the duty of the several persons or companies liable to assessment under ORS 308.505 to 308.660 and 308.705 to 308.730 to furnish, reports to the county assessor, under oath, showing the length in each city, town, school district, road district, port or other municipal taxing agency or district, or in lieu thereof the length in each tax code area in the county, of main and branch railroad lines, and of main tracks, spurs, yard tracks and sidetracks and also of wire, pipe or pole lines and operational routes. [Amended by 1973 c.402 §12]

308.650 Companies to maintain principal office and agent within state. Every company specified in ORS 308.515, doing business as such within this state, shall establish and maintain at some fixed point within the state a principal office and shall maintain thereat a secretary or managing agent.

308.655 Rules and regulations. The Department of Revenue may prescribe directions, rules and regulations to be followed in answering any requirement of ORS 308.505 to 308.660 and 308.705 to 308.730.

308.660 Retroactive effect. Chapter 586, Oregon Laws 1951, [ORS 308.505 to 308.655] shall be given effect retroactively to include the tax year commencing on, and the assessment date of, January 1, 1951.

308.665 Railroad car exemption. (1) During the period of time described in subsection (3) of this section, railroad cars owned by private car companies undergoing major work including remodeling, renovation, conversion or repairs shall be exempt from taxation.

(2) For purposes of this section, the term "major work" shall include all remodeling, renovation, conversion, reconversion or repairs to a railroad car in which the total labor expended for such work exceeds 10 work hours.

(3) The exemption described in subsection (1) of this section shall apply for the period of time in which the railroad cars are awaiting or undergoing major work or are awaiting transportation to or from or are being transported to or from a facility performing such major work.

(4) No exemption under subsection (1) of this section shall be allowed unless the department is furnished sufficient documentary information to prove that the claimant is entitled to the exemption. [1973 c.245 §2; 1987 c.158 §48]

Note: 308.665 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

SINGLE FAMILY RESIDENCE PROPERTY

308.670 Single family residences within commercial or industrial zones assessed at single family residence value. Notwithstanding ORS 308.205 or 308.235, but subject to ORS 308.232:

(1) Any land and improvements which are within a zone allowing industrial or commercial use or more residential density than a single family residence zone established under ORS 215.010 to 215.190 and 215.402 to 215.438 or 227.215 to 227.300, but which are used, and have been used for the preceding five years, exclusively for single family residence as defined in subsection (2) of this section shall, upon compliance with ORS 308.675, be valued at its value for single family residence and not at the real market value the land and improvements would have if applied to other than single family residence.

(2) As used in ORS 308.670 to 308.685:

(a) "Owner" includes purchaser under recorded instrument of sale.

(b) "Single family residence" means a structure designed as a residence for one family and sharing no common wall or parcel of land with another residence of any type and which is the principal place of abode of the owner.

(3) Eligibility of property for special assessment under this section shall be determined as of July 1. [1975 c.655 §1; 1977 c.679 §1; 1981 c.804 §67; 1991 c.459 §159]

Note: 308.670 to 308.685 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 308 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.675 Application for special assessment; form; contents; execution. (1) Any owner of a single family residence entitled to special assessment under ORS 308.670 must, to secure the assessment, make application therefor to the county assessor on or before April 1 of the first year in which the assessment is desired.

(2)(a) The application shall be made upon forms prepared by the Department of Revenue and supplied by the county assessor and shall include information reasonably required to determine whether the special assessment shall be allowed.

(b) The application may be signed by any one of the following:

(A) The owner of the single family residence land and improvements who holds an estate therein in fee simple or for life.

(B) Any one of tenants in common or tenants by the entirety, holding an estate in the single family residence land and improvements in fee simple or for life.

(C) Any person of legal age, duly authorized in writing to sign an application on behalf of any person described in subparagraph (A) or (B) of this paragraph.

(D) The guardian or conservator of an owner.

(E) The purchaser of the fee simple or life estate of an owner under a contract of sale.

(c) The assessor or the deputy of the assessor shall not approve an application signed by a person whose authority to sign is not a matter of public record unless there is filed with the assessor a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the signer's interest or authority. When filed with the assessor only, the instrument shall not constitute a public record.

(3) There shall be annexed to each application the affidavit or affirmation of the applicant that the statements contained therein are true. [1975 c.655 §2; 1977 c.679 §2]

Note: See note under 308.670.

308.680 Assessment of approved land; notice to assessor of change in land use; election by governing body to disqualify property upon transfer; limitation. (1) Upon approval of an application, the county assessor shall assess land and improvements approved under ORS 308.675 at the special assessment provided in ORS 308.670 and shall also enter on the assessment and the tax roll the notation "potential additional tax liability" until the property becomes disqualified for such assessment by:

(a) Notification in writing by the taxpayer to the assessor to remove such special assessment;

(b) Sale or transfer to an ownership which makes the property exempt from ad valorem taxation;

(c) Removal of the special assessment by the assessor upon the discovery that the property is no longer being used for a single family residence; or

(d) Transfer of ownership of property when such property is subject to an ordinance which makes subsection (2) of this section inapplicable to such property, and the transfer occurs after the effective date of the ordinance.

(2)(a) Except as provided in paragraph (b) of this subsection, the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner or other transfer shall not operate to disqualify property from the special assessment provisions of ORS 308.670 to 308.685 so long as the property continues to be used exclusively as a single family residence.

(b) This subsection shall not apply to property if the city or county with planning and zoning jurisdiction over such property adopts an ordinance which makes this subsection inapplicable to such property. An ordinance adopted by a city or county under this paragraph shall not apply to an entire class of zoning districts but shall be limited in application to property within a single restricted geographic area within the city or county. The city or county adopting such ordinance shall give individual mailed notice thereof to all owners of property within the area receiving the special assessment within 30 days after the effective date of the ordinance. Such notice shall include a statement explaining the effect of disqualification under the ordinance.

(3) When, for any reason, the property or any portion thereof ceases to be used exclusively for a single family residence as defined in ORS 308.670 (2), the owner at the time of the change in use shall notify the assessor of such change prior to the next July 1 as-

essment date. [1975 c.655 §3; 1977 c.679 §3; 1991 c.459 §160]

Note: See note under 308.670.

308.685 Disqualified land; additional tax; notice; cancellation of additional tax upon rezoning. (1)(a) Except as provided in subsection (2) of this section, whenever property which has received special assessment as a single family residence under ORS 308.670 thereafter becomes disqualified for the assessment, the assessor shall notify the owner thereof and there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, an additional tax equal to the difference between the taxes assessed against the property and the taxes that would otherwise have been assessed against the property had the property not received special assessment for each of the last five years (or such lesser number of years, corresponding to the number of successive years prior to the year of disqualification, that single family residence assessment was in effect for the property) preceding the tax year in which the single family residence was disqualified for special assessment.

(b) However, if property becomes disqualified under ORS 308.680 (1)(d) and the property first received the special assessment under ORS 308.670 after October 4, 1977, and prior to the effective date of the ordinance, then the provisions of paragraph (a) of this subsection shall not apply.

(2) Whenever property which has received special assessment as a single family residence under ORS 308.670 thereafter becomes disqualified for such assessment, and the notice required by ORS 308.680 (3) is not given, the assessor shall notify the owner thereof and notwithstanding ORS 311.220, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property tax, an additional tax equal to the sum of the following:

(a) An amount equal to the difference between the taxes assessed against the property and the taxes that would otherwise have been assessed against the property had the property not received special assessment for each of the last five years (or such lesser number of years, corresponding to the number of successive years prior to the tax year for which the property should have been disqualified for special assessment as single family residence) preceding the tax year for which single family residence assessment was last properly in effect for the property; and

(b) The difference between the taxes that would have been due had the property been assessed without regard to ORS 308.670 and the taxes that were due for the tax year for which the notice should have been given and each year thereafter, together with the interest that would have accrued had the amounts been placed on the tax roll in the applicable years; and

(c) A penalty equal to 20 percent of the amount specified in paragraph (b) of this subsection; however, no penalty shall be imposed on any amount attributable to interest.

(3) In cases where the designation of specially assessed property is removed as a result of sale or transfer to an ownership which makes it exempt from taxation pursuant to ORS 308.680 (1)(b), the lien for such increased taxes and interest shall attach as of the day preceding such sale or transfer.

(4) The amount determined to be due under subsection (1) or (2) of this section may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(5) Whenever a single family residence zone is established which includes property which is receiving special assessment as a single family residence under ORS 308.670, the county assessor and tax collector shall cancel any potential additional taxes to be collected under this section.

(6) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [1975 c.655 §4; 1977 c.679 §4; 1979 c.350 §8; 1985 c.524 §2; 1991 c.459 §161; 1993 c.18 §71]

Note: See note under 308.670.

308.690 [1975 c.355 §2; 1977 c.811 §3; 1979 c.534 §2; repealed by 1991 c.459 §184]

308.695 [1975 c.355 §3; repealed by 1991 c.459 §184]

308.700 [1975 c.355 §4; 1981 c.804 §68; 1985 c.613 §20; repealed by 1991 c.459 §184]

OPTIONAL GROSS EARNINGS TAX ON REVENUES FROM RURAL TELEPHONE EXCHANGES

308.705 Definitions for ORS 308.705 to 308.730. As used in ORS 308.705 to 308.730:

(1) "Gross earnings" means the local exchange revenue received by the company from subscribers within rural telephone exchanges within this state, together with that portion of the net toll revenue received by the company in this state in the ratio that local exchange revenue received by the company from subscribers within rural telephone exchanges within this state bears to the total local exchange revenue received by the company in this state.

(2) "Local exchange revenue" means the revenue received by the company for the furnishing of services other than long distance telephone service.

(3) "Net toll revenue" means the revenue received by the company for furnishing long distance telephone service over its facilities, excluding any portion thereof paid to or retained by a connecting company or companies the facilities of which are used in part in the furnishing of the long distance telephone service.

(4) "Pole line mile" means a lineal mile of operational telephone line composed of a telephone circuit or circuits carried over wires supported by telephone poles or carried in underground telephone cable or carried over a wireless communications system.

(5) "Rural telephone exchange" means a telephone exchange including its central office, wires, poles, telephones, substations, attachments, land, materials, supplies and equipment which, operated as a unit, provide one or more telephone circuits for the handling of local telephone calls within the exchange, the subscribers of which do not average more than 10 to the pole line mile of the exchange. In classifying items of property as within a "rural telephone exchange," the department shall apply, whenever applicable, the rules under ORS 308.510 used in classifying centrally assessed property under ORS 308.505 to 308.660.

(6) "Subscriber" means the user of a main telephone station. [1957 c.628 §2; 1967 c.77 §1]

308.710 Election to pay gross earnings tax on rural telephone exchanges in lieu of ad valorem taxes. (1) Each company having one or more rural telephone exchanges shall notify the department in writing on or before February 1 of each year of its election to pay the tax on gross earnings as provided in subsection (2) of this section in lieu of ad valorem taxes. Failure to notify the department of such election on or before February 1 shall constitute an election to pay ad valorem taxes on property comprising all rural telephone exchanges of the company.

(2) There hereby is imposed upon every company engaged in the business of telephone communication, having one or more rural telephone exchanges and having made its election to pay a tax on gross earnings pursuant to subsection (1) of this section, a tax of six percent on its annual gross earnings. The tax hereby imposed shall be levied, collected and paid annually. [1957 c.628 §§3, 5]

308.715 Rural telephone exchanges excluded from assessment and apportionment of property taxes. In the assessment

of the property of any company engaged in the business of telephone communication and having one or more rural telephone exchanges, and if the company makes its election to pay a tax on gross earnings pursuant to ORS 308.710 (1), the Department of Revenue shall determine the true cash value of the property of the company comprising other than rural telephone exchanges of the company having a situs in this state, and the property comprising rural telephone exchanges of any company having a total of less than 10,000 subscribers within and without this state shall not be assessable under ORS 308.505 to 308.660 or under other statutes of this state for ad valorem tax purposes and shall not be included in the determination of apportionment of the values of property of any company among the several counties. [1957 c.628 §4; 1959 c.297 §1]

308.720 Return showing gross earnings; payment of tax. Every company upon which a tax is imposed under ORS 308.710 (2), on or before February 1 of each year shall make a return to the department, in such form and on such blanks as the department may provide, showing the amount of its gross earnings during the calendar year preceding, the year-end number of subscribers in each rural telephone exchange, the pole line miles of each rural telephone exchange and such other facts and information as the department may require. The company shall compute and forward with the return the tax imposed by ORS 308.710 (2). [1957 c.628 §6]

308.725 Examination of return by department; apportioning tax to counties. (1) The Department of Revenue shall examine and determine the accuracy of the returns forwarded under ORS 308.720. The department shall thereafter apportion the amount of tax so received among the several counties in which the company operates rural telephone exchanges. The part to be apportioned to a county shall bear the same ratio to the total of the tax so received as the number of wire miles of the rural telephone exchanges or parts thereof in the county bears to the total number of wire miles of all rural telephone exchanges or parts thereof operated by the company in this state. The part apportioned to each county shall be remitted to the treasurer of the county and shall be distributed among the code areas of the county on the basis of wire miles in each code area and among the districts in each code area in the proportion that the rate of tax levy in each district as shown by the tax levy filed with the assessor for the year last in process of collection bears to the total tax rate of the levies of all such taxing bodies for such year.

(2) Whenever the department determines that the use of wire miles under subsection (1) of this section does not fairly apportion the tax, it may apportion the tax to the counties in which the property of the rural telephone exchange is situated in such manner as the department deems reasonable and fair. The department shall advise each assessor of the value apportionment of the companies' properties within the county of the assessor for purposes of distribution of taxes to the taxing district in the county. [1957 c.628 §7; 1963 c.238 §2; 1965 c.492 §1; 1967 c.226 §1; 1969 c.595 §12]

308.730 Tax as a lien; delinquency date; action to collect. (1) The tax imposed under ORS 308.710 (2) shall be a debt due and owing from the company and shall be a lien on all the property, real and personal, of the company on and after February 1 of each year. Interest shall be charged and collected on any tax so imposed and not paid when due at the rate of one percent per month or fraction of a month until paid. The taxes so imposed shall be delinquent if not paid within one year following the due date thereof.

(2) The Department of Revenue shall enforce collection of the tax imposed under ORS 308.710 (2) and immediately after the delinquency date thereof may institute an action for the collection of the taxes, together with interest, costs and other lawful charges thereon. The department shall have the benefit of all laws of this state pertaining to provisional remedies against the properties, either real or personal, of such companies, without the necessity of filing either an affidavit or undertaking, as otherwise provided by law. [1957 c.628 §8; 1981 c.623 §5]

OPEN SPACE LANDS

308.740 Definitions for ORS 308.740 to 308.790. As used in ORS 308.740 to 308.790, unless a different meaning is required by the context:

(1) "Open space land" means:

(a) Any land area so designated by an official comprehensive land use plan adopted by any city or county; or

(b) Any land area, the preservation of which in its present use would:

(A) Conserve and enhance natural or scenic resources;

(B) Protect air or streams or water supply;

(C) Promote conservation of soils, wetlands, beaches or tidal marshes;

(D) Conserve landscaped areas, such as public or private golf courses, which reduce

air pollution and enhance the value of abutting or neighboring property;

(E) Enhance the value to the public of abutting or neighboring parks, forests, wild-life preserves, nature reservations or sanctuaries or other open space;

(F) Enhance recreation opportunities;

(G) Preserve historic sites;

(H) Promote orderly urban or suburban development; or

(I) Retain in their natural state tracts of land, on such conditions as may be reasonably required by the legislative body granting the open space classification.

(2) "Current" or "currently" means as of next July 1, on which the property is to be listed and valued by the county assessor under ORS chapter 308.

(3) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" shall mean the contract vendee. [1971 c.493 §2; 1991 c.459 §162]

308.745 Policy. The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands and the vegetation thereon to assure continued public health by counteracting pollutants and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens. The legislature further declares that it is in the public interest to prevent the forced conversion of open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such open space land, and that assessment practices must be so designed as to permit the continued availability of open space lands for these purposes, and it is the intent of ORS 308.740 to 308.790 to so provide. [1971 c.493 §1]

308.750 Application for open space use assessment; contents of application; filing; reapplication. An owner of land desiring current open space use assessment under ORS 308.740 to 308.790 shall make application to the county assessor upon forms prepared by the Department of Revenue and supplied by the county assessor. The owner shall describe the land for which classification is requested, the current open space use or uses of the land, and shall designate the paragraph of ORS 308.740 (1) under which each such use falls. The application shall include such other information as is reasonably necessary to properly classify an area of land under ORS 308.740 to 308.790 with a verifi-

cation of the truth thereof. Applications shall be made to the county assessor during the calendar year preceding the first tax year for which such classification is requested. If the ownership of all property included in the application remains unchanged, a new application is not required after the first year for which application was made and approved. [1971 c.493 §3; 1991 c.459 §163]

308.755 Submission of application for approval of local granting authority; grounds for denial; approval; withdrawal of application. (1) Within 10 days of filing in the office of the assessor, the assessor shall refer each application for classification to the planning commission, if any, of the governing body and to the granting authority, which shall be the county governing body, if the land is in an unincorporated area, or the city legislative body, if it is in an incorporated area. An application shall be acted upon in a city or county with a comprehensive plan in the same manner in which an amendment to the comprehensive plan is processed by such city or county, and by a city or county without a comprehensive plan after a public hearing and after notice of the hearing shall have been given by three consecutive weekly advertisements in a newspaper of general circulation in the city or county, the third published at least 10 days before the hearing. Each advertisement for one or more hearings shall be no smaller than three column by five inches in size. In determining whether an application made for classification under ORS 308.740 (1)(b) should be approved or disapproved, the granting authority shall weigh the benefits to the general welfare of preserving the current use of the property which is the subject of application against the potential loss in revenue which may result from granting the application.

(2) If the granting authority in so weighing shall determine that preservation of the current use of the land will:

(a) Conserve or enhance natural or scenic resources;

(b) Protect air or streams or water supplies;

(c) Promote conservation of soils, wetlands, beaches or tidal marshes;

(d) Conserve landscaped areas, such as public or private golf courses, which enhance the value of abutting or neighboring property;

(e) Enhance the value to the public of abutting or neighboring parks, forests, wild-life preserves, nature reservations, sanctuaries, or other open spaces;

(f) Enhance recreation opportunities;

(g) Preserve historic sites;

(h) Promote orderly urban or suburban development; or

(i) Affect any other factors relevant to the general welfare of preserving the current use of the property;

the granting authority shall not deny the application solely because of the potential loss in revenue which may result from granting the application.

(3) The granting authority may approve the application with respect to only part of the land which is the subject of the application; but if any part of the application is denied, the applicant may withdraw the entire application. [1971 c.493 §4]

308.760 Notice to assessor of approval or denial; recording approval; assessor to record potential additional taxes on tax roll; appeal from denial. (1) The granting authority shall immediately notify the county assessor and the applicant of its approval or disapproval which shall in no event be later than April 1 of the year following the year of receipt of said application. An application not denied by April 1 shall be deemed approved, and shall be considered to be land which qualifies under ORS 308.740 to 308.790.

(2) When the granting authority determines that land qualifies under ORS 308.740 to 308.790, it shall enter on record its order of approval and file a copy of the order with the county assessor within 10 days. The order shall state the open space use upon which approval was based. The county assessor shall, as to any such land, assess on the basis provided in ORS 308.765, and each year the land is classified shall also enter on the assessment roll, as a notation, the assessed value of such land were it not so classified.

(3) Each year the assessor shall include in the certificate made under ORS 311.105 a notation of the amount of additional taxes which would be due if the land were not so classified.

(4) The additional taxes noted under subsection (3) of this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(5) On approval of an application filed under ORS 308.750, for each year of classification the assessor shall indicate on the tax roll that the property is being specially assessed as open space land and is subject to potential additional taxes as provided by ORS 308.770, by adding the notation "open space land (potential add'l tax)".

(6) Any owner whose application for classification has been denied may appeal to the circuit court in the county where the

land is located, or if located in more than one county, in that county in which the major portion is located. [1971 c.493 §5; 1991 c.459 §164]

308.765 Determination of assessed value of open space lands. In determining the assessed value of open space land which has been classified as such under ORS 308.740 to 308.790, each year the assessor shall, notwithstanding the provisions of ORS 308.205:

(1) Assume the highest and best use of the land to be the current open space use, such as park, sanctuary or golf course, and the assessor shall not consider alternative uses to which the land might be put.

(2) Value the improvements on the land, if any, as required by ORS 308.205. [1971 c.493 §6; 1991 c.459 §165]

308.770 Change in use of open space land; notice to assessor; withdrawal from classification; collection of additional potential taxes. (1) When land has once been classified under ORS 308.740 to 308.790, it shall remain under such classification and it shall not be applied to any other use than as open space unless withdrawn from classification as provided in subsection (2) of this section, except that if the use as open space land changes from one open space use to another open space use, such as a change from park purposes to golf course land, the owner shall notify the assessor of such change prior to the next July 1 assessment date.

(2) During any year after classification, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which such land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from such classification, and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be collected on such land in an amount equal to the total amount of potential additional taxes computed under ORS 308.760 (3) during each year in which the land was classified, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable had the land not been so classified, limited to a total amount not in excess of the dollar difference in the value of the land as open space land for the last year of classification and the real market value under ORS 308.205 for the year of withdrawal.

(3) If the owner fails to give the notice required under subsection (1) of this section during the period of classification, upon withdrawal under subsection (2) of this sec-

tion, the assessor shall add to the tax extended against the land previously classified, an amount, if any, equal to the additional taxes that would have been collected had the assessor valued the classified land on the basis of the changed open space use, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable. [1971 c.493 §7; 1991 c.459 §166]

308.775 Withdrawal by assessor when use changed; notice; imposition of additional taxes; interest; penalty; exception. (1) When land which has been classified and assessed under ORS 308.740 to 308.790 as open space land is applied to some use other than as open space land, except through compliance with ORS 308.770 (2), or except as a result of the exercise of the power of eminent domain, the owner shall within 60 days thereof notify the county assessor of such change in use. The assessor or assessors shall withdraw the land from classification and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be imposed upon such land in an amount equal to the amount that would have been due under ORS 308.770 if notice had been given by the owner as of the date of withdrawal, plus a penalty equal to 20 percent of the amount so determined.

(2) If no notice is given as required by subsection (1) of this section, the assessor, upon discovery of the change in use, shall compute the amount of taxes, penalty and interest described in subsection (1) of this section, as though notice had been given, and shall add thereto an additional penalty equal to 20 percent of the total amount so computed, for failure to give such notice.

(3) The limitation described in ORS 308.770 (2) applies only to the computation of taxes and interest, and not to the penalties described in subsections (1) and (2) of this section.

(4) The provisions of subsections (1) and (2) of this section shall not apply in the event that the change in use results from the sale of a least 50 percent of such land classified under ORS 308.740 to 308.790 within two years after the death of the owner. [1971 c.493 §8]

308.780 Prepayment of additional taxes; extending taxes on tax roll; collection; distribution. (1) The amount determined to be due under ORS 308.770 or 308.775 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(2) The amounts under ORS 308.770 or 308.775 shall be added to the tax extended against the land on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property taxes. [1971 c.493 §9; 1979 c.350 §9]

308.785 Reports from owner to assessor; effect of failure to make report upon request. The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners of land classified under ORS 308.740 to 308.790 as to the use of the same. If the owner shall fail, after 90 days' notice in writing by certified mail to comply with such demand, the assessor may immediately withdraw the land from classification, give written notice to the granting authority of the withdrawal, and apply the penalties provided in ORS 308.770 and 308.775. [1971 c.493 §10]

308.790 Rules and regulations. The Department of Revenue of the State of Oregon shall make such rules and regulations consistent with ORS 308.740 to 308.790 as shall be necessary or desirable to permit its effective administration. [1971 c.493 §11]

RIPARIAN HABITAT

308.792 Definitions for ORS 308.792 to 308.803. As used in ORS 308.792 to 308.803:

(1) "Owner" means the party or parties having the fee interest in land, except that where land is subject to a real estate sales contract, "owner" means the contract vendee under a recorded contract.

(2) "Designated riparian land" means the beds of streams, the adjacent vegetation communities, and the land thereunder, which are predominantly influenced by their association with water, not to extend more than 100 feet landward of the line of nonaquatic vegetation, which are privately owned and which qualify for exemption under ORS 308.792 to 308.803.

(3) "Urban growth boundary" means an urban growth boundary contained in a city or county comprehensive plan that has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 or an urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3). [1981 c.720 §3]

Note: 308.792 to 308.803 were added to and made a part of ORS chapter 308 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

308.793 Policy. The Legislative Assembly declares that it is in the best interest of the state to maintain, preserve, conserve and rehabilitate riparian lands to assure the protection of the soil, water, fish and wildlife

resources of the state for the economic and social well-being of the state and its citizens. The Legislative Assembly declares that riparian habitat maintained in a healthy condition is a legitimate land use that contributes to erosion control, improved water quality and prolonged streamflow. The Legislative Assembly further declares that it is in the public interest to prevent the forced conversion of riparian environments to more intensive uses as a result of economic pressures caused by the assessment of those lands for purposes of property taxation at values incompatible with their protection as riparian lands and that tax exemption must be granted to permit the continued availability of riparian environments for these purposes, and it is the intent of ORS 308.792 to 308.803 to so provide. [1981 c.720 §1]

Note: See note under 308.792.

308.794 Application for exemption as riparian land; contents; notice after sale or transfer. An owner of land desiring designation and exemption of that land from ad valorem taxation as riparian land under ORS 308.792 to 308.803 shall make application to the county assessor upon forms prescribed by the Department of Revenue and supplied by the county assessor. The owner shall describe the land for which designation as riparian lands is requested and the current use of the land. The application shall include any other information as is reasonably necessary to properly designate an area of land as riparian land under ORS 308.792 to 308.803 with a verification of the truth thereof. Applications to the county assessor shall be made on or before December 31 of the calendar year preceding the first tax year for which such designation is requested. The county assessor shall notify the State Department of Fish and Wildlife if a recorded sale or transfer of the land granted exemption under ORS 308.792 to 308.803 occurs for the purpose of determining continued eligibility of the land for the exemption. The State Department of Fish and Wildlife shall notify the county assessor in writing of the finding within 120 days after the date the county assessor's notice is mailed or delivered. Failure of the assessor to notify the State Department of Fish and Wildlife shall not prevent the imposition of the additional tax prescribed by ORS 308.798 (2). [1981 c.720 §4; 1991 c.459 §176]

Note: See note under 308.792.

308.795 Standards and criteria for exemption; determination; partial eligibility. (1) The State Department of Fish and Wildlife shall develop standards and criteria for the designation of land as riparian. Upon the receipt of an application referred to it by

the county assessor, the department shall determine if the land described in the application is qualified for designation as riparian.

(2) The department shall review riparian management plans submitted by applicants to assure compliance with the intent of ORS 308.793. Standards and criteria to be used to determine consistency with the intent of ORS 308.792 to 308.803 shall be developed by the department by July 1, 1982, and shall be reviewed by the department annually. These criteria shall be in addition to the following provisions limiting participation under ORS 308.792 to 308.803:

(a) Only lands planned and zoned as forest or agricultural lands, including rangeland, in compliance with the statewide planning goals adopted under ORS 197.240 and outside adopted urban growth boundaries shall qualify; and

(b) Land management activities permitted within designated riparian lands shall be consistent with the intent of ORS 308.792 to 308.803.

(3) Land that the State Department of Fish and Wildlife determines may qualify for designation as riparian shall be approved by the department for designation and exemption under ORS 308.792 to 308.803 only if the owner of the land has developed and implemented, in accordance with the standards adopted under subsections (1) and (2) of this section, adequate measures for:

(a) The continued protection of the land; or

(b) Techniques for rehabilitation of the riparian land and those measures or techniques are approved by the department.

(4) The department may approve the application for designation of land as riparian with respect to only part of the land that is the subject of the application, but if any part of the application is denied, the applicant may withdraw the entire application. [1981 c.720 §5]

Note: See note under 308.792.

308.796 Approval or disapproval of application; order; notice; exemption; potential additional taxes. (1) The State Department of Fish and Wildlife shall immediately notify the county assessor and the applicant of its approval or disapproval of an application which shall in no event be later than April 1 of the year following the year of receipt of the application. Subject to the mileage limitation of ORS 308.802, an application not denied by April 1 shall be deemed approved, and the land that is the subject of the application shall be considered to be land that qualifies under ORS 308.795.

(2) When the department approves land for designation as riparian under ORS 308.795, it shall enter an order of approval and file a copy of the order with the county assessor within 10 days. Upon receipt of the order, the county assessor shall enter a notation on the assessment roll that the land described in the order is exempt from ad valorem taxation.

(3) On approval of an application filed under ORS 308.794, for each year of designation the assessor shall indicate on the tax roll that the property is exempt from taxation as riparian land and is subject to potential additional taxes as provided by ORS 308.798, by adding the notation "designated riparian land (potential add'l tax)."

(4) Any owner whose application for designation has been denied may appeal to the department under the provisions of ORS 183.310 to 183.550 governing contested cases. [1981 c.720 §6]

Note: See note under 308.792.

308.797 Duration of exemption; change in use; withdrawal at request of owner.

(1) When land has once been designated as riparian under ORS 308.792 to 308.803, it shall remain under that designation and it shall not be applied to any use other than those specifically included in the management plan or consistent with the intent of ORS 308.792 to 308.803 unless withdrawn from designation as provided in subsection (2) of this section.

(2) During any year after designation, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which the land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from designation as riparian and shall immediately give written notice of the withdrawal to the State Department of Fish and Wildlife. [1981 c.720 §7]

Note: See note under 308.792.

308.798 Additional taxes upon withdrawal from riparian land designation; computation. (1) When land that has been designated as exempt from taxation under ORS 308.792 to 308.803 as riparian is applied to some use other than that compatible with riparian use, as defined in the management plan, except through compliance with ORS 308.797 (2), or except as a result of the exercise of the power of eminent domain, the owner shall within 60 days after the change in use notify the county assessor of the change in use. The assessor or assessors shall withdraw the land from designation and immediately give written notice of the withdrawal to the State Department of Fish and Wildlife. Thereafter, the land shall be as-

essed and taxed as other property similarly situated is assessed and taxed.

(2) The assessor, upon discovery of the change in use to a use other than that compatible with riparian or upon withdrawal by the owner of the land from designation, shall compute an additional tax equal to the difference between the taxes assessed against the land and the taxes that otherwise would have been assessed against the land had the land not received exemption for each of the last five years (or such lesser number of years, corresponding to the number of years of exemption under ORS 308.792 to 308.803 applicable to the property after its most recent change of ownership) preceding the tax year in which the land was withdrawn from designation. [1981 c.720 §8; 1991 c.459 §178]

Note: See note under 308.792.

308.799 Additional taxes; payment; collection. (1) The amount determined to be due under ORS 308.798 may be paid to the tax collector prior to the completion of the next general property tax roll, pursuant to ORS 311.370.

(2) The amounts under ORS 308.798 shall be added to the tax extended against the entire parcel of land of which the riparian land is a part on the next general property tax roll, to be collected and distributed in the same manner as the remainder of the real property taxes. [1981 c.720 §9]

Note: See note under 308.792.

308.800 Reports from owners; request after exemption granted for determination of continued qualification. (1) The assessor shall at all times be authorized to demand and receive reports by registered or certified mail from owners of land designated as riparian under ORS 308.792 to 308.803 as to the use of the same. If the owner fails, after 90 days' notice in writing by certified mail to comply with such demand, the assessor shall give written notice to the State Department of Fish and Wildlife and to the landowner of the assessor's intention to withdraw the land from designation and apply the payments and penalties provided in ORS 308.798 not less than 30 days prior to automatic withdrawal of the riparian land from designation. If, prior to the expiration of the 30-day period, the landowner fails to file the requested report, the assessor immediately shall withdraw the land from designation and apply the payments and penalties provided in ORS 308.798.

(2) If the assessor has reason to believe that land designated as riparian land no longer qualifies for designation and special assessment, the assessor shall request the State Department of Fish and Wildlife to determine if the land continues to qualify. The

request shall be in writing. Upon receipt of the request, the State Department of Fish and Wildlife shall inspect the property and may take whatever steps are necessary to determine if the land continues to qualify for special assessment. The State Department of Fish and Wildlife shall notify the assessor of the determination made pursuant to the request of the assessor within 120 days after the request is received. A determination by the State Department of Fish and Wildlife that the property no longer qualifies shall constitute a discovery described in ORS 308.798 (2). [1981 c.720 §10]

Note: See note under 308.792.

308.801 Farm, forest, open space land; designation as riparian; abatement of additional tax. (1) Land that is being assessed under any of the special assessment laws listed under ORS 308.025 (2)(a) to (d) and (f), including ORS 308.370 (1), may be designated as riparian upon application and approval of the application under ORS 308.794 and 308.795.

(2) Notwithstanding the provisions of any of the special assessment laws listed under ORS 308.025 (2)(a) to (d) and (f), including 308.370 (1), the additional taxes, penalties and interest that would be due as a result of a change of designation to riparian shall be abated and shall not be collected. [1981 c.720 §11]

Note: See note under 308.792.

308.802 Limitation on amount of land that may be exempt as riparian land. (1)(a) For the tax years beginning prior to July 1, 1998, the department may approve for designation as riparian land not more than 100 miles of private streambank in any county.

(b) The land approved for designation as riparian land under this subsection each year shall be in addition to, and not restricted by, the approval of designation of land as riparian during the previous year. However, the department may, in addition, approve for designation as riparian land each year an amount of land equal to the amount of land withdrawn from, or disqualified for, designation as riparian land during the previous year, and, an amount of land equal to the difference between the amount of land approved for designation as riparian land during the previous years and the maximum established under paragraph (a) of this subsection.

(2) If the department receives applications for designation of land as riparian in excess of the maximum established under subsection (1) of this section, preference shall be afforded according to the date the application was filed with the county

assessor. Applications which are not approved because the maximum has been reached shall be held for consideration for approval for the next tax year. [1981 c.720 §12; 1989 c.924 §6; 1991 c.459 §182]

Note: See note under 308.792.

308.803 Rules; repealer. (1) The Department of Revenue and the State Department of Fish and Wildlife shall make such rules consistent with ORS 308.792 to 308.803 as may be necessary or desirable to permit its effective administration.

(2) ORS 308.792 to 308.803 are repealed on December 31, 1997. [1981 c.720 §§13, 13a; 1989 c.924 §7]

Note: See note under 308.792.

GROSS EARNINGS TAX ON MUTUAL OR COOPERATIVE DISTRIBUTION SYSTEMS

308.805 Mutual and cooperative electric distribution systems subject to tax on gross earnings. (1) Every association of persons, wholly mutual or cooperative in character, whether incorporated or unincorporated, the principal business of which is the construction, maintenance and operation of an electric transmission and distribution system for the benefit of the members of such association without intent to produce profit in money and which has no other principal business or purpose shall, in lieu of all other taxes on the transmission and distribution lines, pay a tax on all gross revenue derived from the use or operation of transmission and distribution lines (exclusive of revenues from the leasing of lines to governmental agencies) at the rates prescribed by ORS 308.807. The tax shall not apply to or be in lieu of ad valorem taxation on any property, real or personal, which is not part of the transmission and distribution lines of such association.

(2) The Department of Revenue, pursuant to ORS 308.505 to 308.655, shall assess for ad valorem taxation all the real and personal property of such associations which is not a part of "transmission and distribution lines," as defined in subsection (3) of this section. All other property subject to ad valorem taxation shall be assessed in the manner otherwise provided by law, by the assessor of the county in which such property has a tax situs.

(3) As used in ORS 308.805 to 308.820:

(a) "Transmission and distribution lines" shall include all property that is energized or capable of being energized or intended to be energized, or that supports or is integrated with such property. This includes, but is not limited to, substation equipment, fixtures and framework, poles and the fixtures

thereon, conductors, transformers, services, meters, street lighting equipment, easements for rights of way, generating equipment, communication equipment, transmission lines leased to governmental agencies, construction tools, materials and supplies, office furniture and fixtures and office equipment. This shall not include such property as parcels of land, buildings, and merchandise held for resale.

(b) "Wire mile" means a single conductor one mile long installed in a line, but not including service drops. [Amended by 1957 c.637 §1; 1959 c.109 §4; 1969 c.492 §1]

308.807 Amount of tax. For payments due July 1, 1992, and each July 1 thereafter, the amount of the tax imposed by ORS 308.805 shall be the lesser of:

(1) Four percent of all gross revenue derived from the use or operation of transmission and distribution lines (exclusive of revenues from the leasing of lines to governmental agencies) minus the cost of power to the association, or;

(2) The sum of:

(a) An amount obtained by multiplying the real market value of the transmission and distribution lines for the current fiscal year by the maximum school tax rate allowable under ORS 310.150, plus;

(b) An amount obtained by multiplying the real market value of the transmission and distribution lines for the current fiscal year by \$10 per \$1,000 of real market value, plus;

(c) An amount obtained by multiplying the real market value of the transmission and distribution lines by the tax rate of the county for exempt bonded indebtedness as defined in ORS 310.140. [1969 c.492 §3; 1983 c.782 §1; 1985 c.213 §1; 1991 c.459 §169]

308.810 Association to file statement; payment of tax. (1) Every association referred to in ORS 308.805 shall make and file with the Department of Revenue, on or before February 1 of each year, in such form and on such blanks as the department may prescribe and provide, the statement required under ORS 308.520 and 308.525, and shall include therein the amount of all its gross revenue subject to the tax levied by ORS 308.805 for the calendar year preceding the making of such statement. The association shall compute and forward on or before July 1 of each year the lesser of the tax calculated under ORS 308.807 (1) on such gross revenue or the tax calculated under ORS 308.807 (2) on the real market value of the transmission and distribution lines used or operated by the association.

(2) The department shall notify the association of the real market value of the transmission and distribution lines used or operated by the association on or before the date fixed for notices of assessment to be issued under ORS 308.595 (2). [Amended by 1957 c.637 §2; 1969 c.492 §4; 1983 c.782 §1; 1991 c.459 §170]

308.815 Examination of return by department; distribution of tax. (1) The Department of Revenue shall examine and determine as to the correctness of the return and taxes on the association's gross revenue forwarded pursuant to ORS 308.810 and if found correct shall thereupon remit the tax so received to the treasurers of the counties in which the association has electric transmission and distribution lines in proportion to the number of wire miles in each of such counties.

(2) If the taxes so received by the treasurers of the respective counties are measured by gross revenue they shall be credited as follows:

(a) For payments due July 1, 1992:

(A) 60 percent to the county school fund.

(B) 40 percent to the general fund of the county.

(b) For payments due July 1, 1993:

(A) 55.6 percent to the county school fund.

(B) 44.4 percent to the general fund of the county.

(c) For payments due July 1, 1994:

(A) 50 percent to the county school fund.

(B) 50 percent to the general fund of the county.

(d) For payments due July 1, 1995:

(A) 42.9 percent to the county school fund.

(B) 57.1 percent to the general fund of the county.

(e) For payments due July 1, 1996, and thereafter:

(A) 33.3 percent to the county school fund.

(B) 67.7 percent to the general fund of the county.

(3) If the amount of the taxes was determined under ORS 308.807 (2) they shall be deposited in the unsegregated tax collections account and distributed according to the percentage distribution schedule in ORS 311.390.

(4) If the return or taxes are found to be incorrect, the department shall notify the association of the error, and refund any overpayment or demand payment of any deficiency. [Amended by 1963 c.238 §3; 1969 c.492 §5; 1991 c.459 §171]

308.820 Tax as a lien; delinquency date; action to collect. (1) All taxes levied under ORS 308.805 shall be a debt due and owing from the association and shall be a lien on all the property, real and personal, of such associations from February 1 of each year. Interest shall be charged and collected on any taxes not paid when due at the rate of one percent per month or fraction of a month until paid. Such taxes shall be delinquent if not paid within 30 days of the due date thereof.

(2) The Department of Revenue shall enforce collection of the taxes levied under ORS 308.805 and immediately after the delinquency date thereof shall institute an action for the collection of such taxes, together with interest, costs and other lawful charges thereon. The department shall have the benefit of all laws of this state pertaining to provisional remedies against the properties, either real or personal, of such associations, without the necessity of filing either an affidavit or undertaking, as otherwise provided by law. [Amended by 1957 c.637 §3; 1981 c.623 §6]

308.850 [1969 c.605 §11; repealed by 1971 c.529 §37]

308.855 [1969 c.605 §12; repealed by 1971 c.529 §37]

308.860 [1969 c.605 §13; repealed by 1971 c.529 §37]

MANUFACTURED STRUCTURES; MOBILE MODULAR UNITS

308.865 Notice and payment of taxes before trip permit issued for manufactured structure; fee. (1) A person shall not move a manufactured structure to a new situs within the same county or outside the county until the person has:

(a) Given notice of the move to the county assessor, county tax collector and the Department of Transportation; and

(b) Paid all property taxes and special assessments for the current tax year and all delinquent property taxes and special assessments.

(2) The Department of Transportation shall not issue a trip permit under ORS 820.560, until the owner furnishes a statement from the county assessor and tax collector that all taxes have been paid as required by subsection (1) of this section. The Department of Transportation shall accept a receipt issued under ORS 308.866 (2), (3) and (4) as sufficient statement of payment of taxes from a person who applies for a trip permit to move a mobile modular unit.

(3) In computing taxes that will become due for purposes of an application for a trip permit under ORS 820.560, the following apply:

(a) If the assessor can compute the exact amount of taxes, special assessments, fees

and charges, the assessor is authorized to levy and the tax collector is authorized to collect such amount.

(b) If the assessor is unable to compute such amount at such time, the owner shall either pay an amount computed using the value then on the assessment roll for such manufactured structure or that value which next would be used on an assessment roll and the assessor's best estimate of taxes, special assessments, fees and other charges.

(c) ORS 311.370 shall apply to all taxes collected under this subsection.

(4) The assessor of the county of the old situs may charge the owner of a manufactured structure a fee of no more than \$10 for preparing the statement required by subsection (2) of this section.

(5) As used in this section and ORS chapters 306, 308, 310 and 311, "manufactured structure" has the meaning given in ORS 801.333. [1969 c.605 §14; 1971 c.529 §31; 1973 c.91 §5; 1977 c.884 §10; 1979 c.350 §10; 1983 c.311 §1; 1985 c.16 §455; 1985 c.416 §§1, 1a; 1991 c.459 §172; 1993 c.551 §3; 1993 c.696 §12]

Note: 308.865, 308.866, 308.875, 308.880, 308.890 and 308.905 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 308 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

308.866 Statement of value of mobile modular units; payment of taxes under ORS 308.865; receipt; use to obtain trip permit. As used in ORS 308.865, 820.560 and this section, "mobile modular unit" means a prefabricated structure that is more than eight feet wide, is used for commercial or business purposes and is capable of being moved on the highway.

(2) On July 1 of each year the owner of a mobile modular unit that is taxed as personal property shall submit to the county assessor of the county in which the unit is located a statement of the value of the unit and of its location.

(3) When taxes on a mobile modular unit have been paid in accordance with the provisions of ORS 308.865, the tax collector shall issue the owner of the unit a receipt indicating that the taxes have been paid. The receipt shall be proof that property taxes in that county have been paid for the tax year and shall be accepted by the Department of Transportation when the owner of the unit applies for a trip permit under ORS 820.560.

(4) Notwithstanding any other provision of law, the county tax collector shall accept a cashier's check or money order in payment of taxes on a mobile modular unit. [1993 c.551 §§1,2]

Note: See note under 308.865.

308.870 [1969 c.605 §15; 1971 c.210 §1; repealed by 1971 c.529 §37]

308.875 Manufactured structures classified as real or personal property; effect of classification on other transactions. If the manufactured structure and the land upon which the manufactured structure is situated are owned by the same person, the assessor shall assess the manufactured structure as real property. If the manufactured structure is owned separately and apart from the land upon which it is located, it shall be assessed and taxed as personal property. Subject to ORS 820.510, classification of a manufactured structure as real property for ad valorem tax purposes shall not change the classification of such structure as personal property with respect to any transactions between the owner and security interest holders or other persons. Manufactured structures need not be returned under ORS 308.290. [1969 c.605 §16; 1971 c.529 §12; 1973 c.91 §6; 1983 c.748 §4; 1985 c.16 §456; 1993 c.696 §13]

Note: See note under 308.865.

308.880 Travel or special use trailer eligible for ad valorem taxation upon application of owner. (1) The owner of any travel trailer described in ORS 801.565 which is being used either as a permanent home or for other than recreational purposes may apply to the assessor in the county in which it has situs to have the travel trailer assessed for ad valorem taxation. If the assessor determines that the travel trailer is being used either as a permanent home or for other than recreational uses, the assessor shall place the travel trailer on the assessment and tax rolls the same as if it were a manufactured structure. The assessor shall accept the travel trailer plate for the vehicle and return them to the Department of Transportation, and shall assist in obtaining a permanent identification plate under ORS 820.500, from the division for the travel trailer. Any travel trailer placed on the assessment and tax rolls under this section shall be considered as a manufactured structure for all purposes.

(2) The owner of any special use trailer described in ORS 801.500 that is eight and one-half feet or less in width may apply to the assessor of the county in which it has situs to have the special use trailer assessed for ad valorem taxation. If the assessor determines that the special use trailer is eight and one-half feet or less in width and is permanently situated in one place, the assessor shall place the special use trailer on the assessment and tax rolls in the same way as if it were a manufactured structure. The assessor shall accept any special use trailer plates for the vehicle and return them to the Department of Transportation, and shall assist in obtaining a permanent identification plate under ORS 820.500 from the division for the special use trailer. Any special use

trailer placed on the assessment and tax rolls under this section shall be considered as a manufactured structure for all purposes. [1969 c.605 §59; 1971 c.529 §5; 1983 c.338 §907; 1993 c.696 §14]

Note: See note under 308.865.

308.885 Determination of real market value of manufactured structure without physical appraisal. Each year that a physical appraisal is not made of a manufactured structure, the assessor shall consider the value of the manufactured structure, and shall apply uniform depreciation or trending factors, if necessary to arrive at the real market value of manufactured structures of a like class. [1971 c.529 §15; 1991 c.459 §173]

308.890 Refund of taxes paid on certain manufactured structures moved to other states. Whenever a manufactured structure is moved to a state which does not honor the registration of the manufactured structure as evidence of payment of manufactured structure registration fees for the duration of the registration period, the taxpayer to whom the manufactured structure is registered may apply for a refund under ORS 311.806. Application shall be made to the county court of the county in which the manufactured structure had situs. The refund shall be in the amount of taxes paid, reduced by the taxes which were paid on the manufactured structure for the number of whole months that the manufactured structure was in the State of Oregon. [1973 c.91 §8; 1983 c.311 §2; 1983 c.338 §908; 1985 c.16 §475]

Note: See note under 308.865.

308.905 Special assessment on manufactured structure; collection; use. (1) A special assessment is levied upon each manufactured structure that is assessed for ad valorem property tax purposes as personal property. The amount of the assessment is \$5.

(2) The county assessor shall determine and list the manufactured structures in the county that are assessed for the current assessment year as personal property. Upon making a determination and list, the county assessor shall cause the special assessment levied under subsection (1) of this section to be entered on the general assessment and tax roll prepared for the current assessment year as a charge against each manufactured structure so listed. Upon entry, the special assessment shall become a lien, be assessed and be collected in the same manner and with the same interest, penalty and cost charges as apply to ad valorem property taxes in this state.

(3) Any amounts of special assessment collected pursuant to subsection (2) of this section shall be deposited in the county treasury, shall be paid over by the county

treasurer to the State Treasury and shall be credited to the Mobile Home Parks Purchase Account to be used exclusively for the purposes described in ORS 456.581. [1989 c.919 §3]

Note: See note under 308.865.

PENALTIES

308.990 Penalties. (1) Violation of ORS 308.320 (3) or of ORS 308.330 is a misdemeanor. The judgment of conviction of any assessor for such a violation shall of itself work a forfeiture of the office of the assessor.

(2) Any taxpayer or managing officer thereof who fails to furnish, after written demand so to do by the assessor or the county board of equalization having jurisdiction or the Department of Revenue, any information or, upon like demand, fails to produce any books, records, papers or documents required by ORS 308.285 or 308.335 to be furnished by the taxpayer or managing officer to the county assessor, the county board of equalization or the Department of Revenue, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not less than \$25 nor more than \$1,000. Circuit courts shall have jurisdiction in the trial of such offenses.

(3) Any person, firm, association or corporation, or agent or managing officer thereof, who presents or furnishes to the Director of the Department of Revenue any statement, required by ORS 308.335, or required by the director under the authority of ORS 308.335, which statement is willfully false or fraudulent, is liable to a penalty of not less than \$100 nor more than \$1,000. The penalty shall be recovered by the Attorney General, in the name of the state, by action in any court of competent jurisdiction.

(4) Any person who willfully presents or furnishes to the director any statement, required by ORS 308.505 to 308.660 or 308.705 to 308.730 which statement is false or fraudulent, is guilty of perjury and, upon conviction, shall be punished as otherwise provided by law for such crime.

(5) Any willful violation of ORS 308.413 or of any rules adopted under ORS 308.413 is punishable, upon conviction, by a fine not exceeding \$10,000, or by imprisonment in the county jail for not more than one year, or by both. [Subsections (3) and (4) of 1959 Replacement Part enacted as 1955 c.488 §2; subsections (3) and (4) of 1959 Replacement Part renumbered as part of 321.991; subsection (7) enacted as 1969 c.605 §58; 1971 c.529 §33; 1977 c.884 §11; subsection (5) enacted as 1981 c.139 §4]

REVENUE AND TAXATION
