

purpose of defraying the costs of acquiring historic real property and for restoration of historic buildings or facilities. A sinking fund may be created through the inclusion annually within the tax budget of the district of items representing the yearly installments to be credited to the fund. The amount of these items shall be collected and credited to the proper fund in the same manner in which taxes levied or revenues derived for other purposes for the district are collected and credited. None of the moneys in sinking funds shall be diverted or transferred to other funds, but if unexpended balances remain after disbursement of the funds for the purpose for which they were created, such balances, upon approval by resolution of the board, shall be transferred to the operation and maintenance fund of the district. [Formerly 198.987]

Note: See note under 358.442.

358.472 Legal counsel for heritage district. The board of a heritage district may call upon the attorney for the heritage district for advice as to any district business. The attorney for the heritage district shall give advice when called on for advice by the board. The board may at any time employ special counsel for any purpose. [Formerly 198.988]

Note: See note under 358.442.

358.474 Employees' retirement system. A heritage district may establish an employees' retirement system as provided for rural fire protection districts under ORS 478.355 to 478.370. [Formerly 198.989]

Note: See note under 358.442.

HISTORIC PROPERTY (Policy and Definitions)

358.475 Policy. The Legislative Assembly hereby declares that it is in the best interest of the state to maintain, preserve and rehabilitate properties of Oregon historical significance. Historic preservation incentive programs provide a public benefit by encouraging preservation and appropriate rehabilitation of significant historic properties. These historically significant portions of the built environment contain the visual and intellectual record of our irreplaceable cultural heritage. They link us with our past traditions and values, establish standards and perspectives for measuring our present achievements and set goals for future accomplishments. To the extent that Oregon's historic preservation incentive programs encourage the preservation and appropriate rehabilitation of significant historical property, the programs create a positive partnership between the public good and private property that promotes economic development; tourism; energy and resource conservation;

sustainability; neighborhood, downtown and rural revitalization; efficient use of public infrastructure; and civic pride in our shared historical and cultural foundations. [1975 c.514 §1; 1995 c.5 §1; 2001 c.540 §1; 2009 c.892 §1]

Note: Section 21, chapter 892, Oregon Laws 2009, provides:

Sec. 21. Section 7 of this 2009 Act [358.500], the amendments to ORS 93.040, 358.475, 358.480, 358.487, 358.490, 358.495, 358.499, 358.505, 358.509, 358.511, 358.515, 358.525, 358.528, 358.540, 358.541, 358.543 and 358.545 by sections 1 to 5 and 8 to 19 of this 2009 Act and the repeal of ORS 358.482, 358.526 and 358.535 by section 20 of this 2009 Act apply to tax years beginning on or after July 1, 2010. [2009 c.892 §21]

358.480 Definitions for ORS 358.480 to 358.545. As used in ORS 358.480 to 358.545, unless the context requires otherwise:

(1) "Americans with Disabilities Act" means the Americans with Disabilities Act of 1990 (P.L. 101-336), as amended.

(2) "Certify," "certified" and "certification" refer to the approval of historic property by the State Historic Preservation Officer for classification and special assessment under ORS 358.495.

(3) "Classified" and "classification" refer to the recognition of property by the State Historic Preservation Officer as historic property as defined in this section.

(4) "Commercial building" means improved property used in a trade or business or held for the production of income, not including residential rental property.

(5) "Condominium" means, with respect to property submitted to the provisions of ORS 100.005 to 100.625:

(a) The land, if any, whether fee simple, leasehold, easement or other interest or combination thereof, and whether contiguous or noncontiguous;

(b) Any buildings, improvements and structures on the property; and

(c) Any easements, rights and appurtenances belonging to the property.

(6) "Condominium unit" means a part of the property:

(a) That is described in ORS 100.020 (3);

(b) That is intended for any type of independent ownership; and

(c) The boundaries of which are described pursuant to ORS 100.105 (1)(d).

(7) "Condominium unit owner" means, except to the extent the declaration or by-laws provide otherwise, the person owning fee simple interest in a condominium unit, the holder of a vendee's interest in a condominium unit under a recorded installment contract of sale or, in the case of a leasehold condominium, the holder of the leasehold estate in a condominium unit.

(8) "Contributing resource" means a building, site or structure that adds to the historic significance of a historic property or historic district.

(9) "Developer" means, with respect to a condominium, a declarant who records a declaration under ORS 100.100 or a supplemental declaration under ORS 100.110 or any person who purchases an interest in a condominium from a declarant, successor declarant or subsequent developer for the primary purpose of resale.

(10) "Governing body" means the city or county legislative body having jurisdiction over the property that is the subject of an application for historic property special assessment under ORS 358.487 to 358.543.

(11) "Historic property" means real property that:

(a) Is currently listed, either individually or as a contributing resource, in the National Register of Historic Places established and maintained under the National Historic Preservation Act of 1966 (P.L. 89-665);

(b) Is currently not a contributing resource in a listed national register district or property but that, in the opinion of the State Historic Preservation Officer, is eligible to become a contributing resource as a result of a proposed preservation plan; or

(c) Has been determined to be eligible for listing in the National Register of Historic Places by the State Historic Preservation Officer.

(12) "Historic rehabilitation standards" means the United States Secretary of the Interior's Standards for Rehabilitation as in effect on September 28, 2009.

(13) "Maintenance" means action taken to mitigate wear and deterioration of a historic property without altering the historic character of the property, including action taken to protect and repair the condition of the property with the least possible impact on the historic character of the property.

(14) "Owner" means a purchaser of real property under a recorded instrument of sale. In the case of multiple purchasers, "owner" may be a designee of the purchasers.

(15) "Preservation":

(a) Means the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property, including but not limited to the ongoing maintenance and repair of historic materials.

(b) Does not include the extensive replacement of historic materials or new construction.

(16) "Preservation plan" means a written document, photographs and drawings that outline the work of preservation, maintenance and rehabilitation proposed for completion while the property is receiving historic property special assessment or completed not more than 24 months before the date of application for historic property special assessment.

(17) "Rehabilitation" means the process of repairing or altering a historic property in order to return the property to a state of utility in which an efficient contemporary use is possible, while preserving those portions and features of the property that are significant to the historic, architectural and cultural values of the property.

(18) "Seismic improvement" means construction or other measures that improve the seismic performance or structural stability of property or that reduce the potential for heavy structural damage to property or harm to people in or adjacent to the property in the event of an earthquake.

(19) "Sustainability" means, with respect to historic property, fulfilling present and future needs by using, without harming, renewable resources and unique human and environmental systems of a site, including air, water, land, energy, human ecology and other sustainable systems. [1975 c.514 §2; 1983 c.720 §1; 2001 c.540 §2; 2009 c.892 §2]

Note: See note under 358.475.

358.482 [1995 c.693 §2; 2001 c.540 §3; repealed by 2009 c.892 §20]

358.485 [1975 c.514 §3; 1983 c.720 §3; 1989 c.904 §54; 1995 c.693 §15; repealed by 2001 c.540 §25]

(Application)

358.487 Application for classification and special assessment as historic property; term of assessment; fee. (1) An owner of historic property desiring classification and special assessment under ORS 358.487 to 358.543 for the property shall apply to the State Historic Preservation Officer on forms approved by the officer.

(2) The application must include or be accompanied by:

(a) A preservation plan as defined in ORS 358.480. The preservation plan must commit the applicant to expend, within the first five years for which historic property special assessment is granted, an amount not less than 10 percent of the historic property's real market value determined as of the assessment date for the first tax year to which the historic property special assessment applies. The focus of the preservation plan must be on exterior features, especially those visible from a public way, and structural members of the property. The treatment of significant

interior features, as determined by the State Historic Preservation Officer, may also be included in the plan, but unless specifically required by the officer, work in bathrooms, kitchens, basements and attics is not included in the preservation plan. Work proposed in the plan must meet the historic rehabilitation standards.

(b) Payment of an application fee equal to:

(A) One-tenth of one percent of the assessed value of the property, as of the assessment date, for the year in which application is made; or

(B) For property that does not have an assessed value, one-tenth of one percent of the product of the real market value of the property for the tax year in which the application is made multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(c) A copy of the property's current tax statement.

(d) Proof that the owner has property insurance on the property in an amount equal to the replacement value of the property.

(e) The written consent of the owner to the viewing of the property by the State Historic Preservation Officer.

(3) The application must be made before April 1 of the assessment year for which classification and special assessment as historic property are desired.

(4)(a) Property must be classified as historic property in order to be certified for historic property special assessment.

(b) Notwithstanding paragraph (a) of this subsection, property may be certified for historic property special assessment upon a determination of eligibility by the State Historic Preservation Officer under ORS 358.480 (11)(b) or (c). Property certified under this paragraph must become listed in the National Register of Historic Places within two years of certification under ORS 358.490.

(5) Classification and special assessment pursuant to an application made under this section are granted for 10 consecutive property tax years, starting in the tax year beginning on July 1 of the assessment year described in subsection (3) of this section.

(6) The application fee required under subsection (2) of this section shall be deposited in the State Parks and Recreation Department Fund for use by the State Parks and Recreation Director or for transfer to the Oregon Property Management Account established under ORS 358.680 to 358.690, upon the advice of the State Advisory Com-

mittee on Historic Preservation. The application fee becomes nonrefundable after certification as described in ORS 358.495. [1995 c.693 §3; 1997 c.541 §427; 2001 c.540 §4; 2005 c.22 §257; 2007 c.718 §1; 2009 c.892 §3]

Note: See note under 358.475.

Note: Section 4 (2), chapter 718, Oregon Laws 2007, provides:

Sec. 4. (2) Nothing in the amendments to ORS 358.487, 358.540 and 358.541 by sections 1 to 3 of this 2007 Act affects the status of property that is classified as historic property on the effective date of this 2007 Act [September 27, 2007]. Such property may continue to receive special assessment under ORS 358.480 to 358.545 until the completion of the 15-year term that is in effect on the effective date of this 2007 Act. [2007 c.718 §4(2)]

358.490 Review and approval of application; withdrawal; amendment of plan.

(1)(a) After an application is submitted under ORS 358.487, the State Historic Preservation Officer shall first review the application to determine whether the application meets the requirements of ORS 358.487 and may view the premises.

(b) If the officer determines that the application does not meet the requirements of ORS 358.487, the officer shall return the application with an explanation for the nonacceptance.

(c) If the officer determines that the application is complete, the officer shall mail or otherwise transmit copies of the application to the appropriate county assessor, local landmark commission and governing body.

(2) Within 30 days from the date the State Historic Preservation Officer transmits the copy of the application under subsection (1) of this section, the county assessor shall review the application for accuracy and completeness of description and other matters within the expertise of the county assessor, and shall make recommendations regarding the validity and appropriateness of the application to the officer.

(3) Within 30 days from the date the State Historic Preservation Officer transmits the copy of the application under subsection (1) of this section, the governing body shall review the application for matters relating to public benefit and shall make recommendations regarding the classification to the officer.

(4) During the review process of each application, the State Historic Preservation Officer shall consider the county assessor's and governing body's recommendations submitted under subsections (2) and (3) of this section.

(5)(a) After receiving recommendations from the county assessor and governing body under subsections (2) and (3) of this section, the State Historic Preservation Officer shall

approve or deny the application or approve the application with conditions.

(b) The officer may approve the application with respect to only part of the property that is the subject of the application. However, if any part of the application is denied, the applicant may withdraw the application.

(c) The officer may not disapprove the application solely because of the potential loss of revenue that might result from granting the application.

(6) Property classified as historic property under ORS 358.487 to 358.543 is entitled to any other exemption or special assessment provided by law.

(7) A preservation plan that has been approved by the State Historic Preservation Officer may be amended from time to time, either at the request of the owner or at the request of the State Historic Preservation Officer. The amendments may be approved, approved in part or disapproved by the State Historic Preservation Officer. To the extent the amendments are approved, amendments shall become part of the preservation plan that must be carried out in order that the property not be disqualified as historic property. [1975 c.514 §4; 1983 c.720 §4; 1995 c.5 §7; 1995 c.693 §4; 2001 c.540 §5; 2009 c.892 §4]

Note: See note under 358.475.

358.495 Notice of approval or disapproval; certification and plaque; review, hearing and final order. (1)(a) Immediately following approval or disapproval of an application under ORS 358.490, the State Historic Preservation Officer shall notify the county assessor, the governing body and the applicant of the decision in writing not later than July 1 of the tax year for which classification and special assessment are first desired.

(b) An application not denied on or before July 1 pursuant to paragraph (a) of this subsection is deemed approved, and the property that is the subject of the application is historic property that qualifies under ORS 358.487 to 358.543.

(2) If the State Historic Preservation Officer determines that the historic property qualifies under ORS 358.487 to 358.543, the officer shall, not later than July 1 of the tax year for which the property is first certified for historic property special assessment:

(a) Notify the local landmark commission that the property is certified.

(b) Certify the property's qualification in writing and file a copy of the certificate with the county assessor and the governing body. The certificate shall state the facts and list any condition on which the approval is based.

(c) Record a notice with the county clerk in the county in which the certified historic property is located stating that the property is certified for historic property special assessment.

(d) Provide the owner of the property with a plaque. The owner shall install the plaque on the property in a location that is visible from a public right of way.

(3) The county assessor shall assess historic property certified under this section on the basis provided in ORS 358.505, and each year the historic property is classified and assessed under ORS 358.505 shall enter on the assessment and tax roll that the property is being specially assessed as historic property and is subject to potential additional taxes as provided in ORS 358.525 by adding the notation "historic property (potential additional tax)."

(4) If the State Historic Preservation Officer determines that the property does not qualify for classification and assessment under ORS 358.487 to 358.543, the State Historic Preservation Officer shall give written notice of the denial to the applicant. The notice shall state the reasons for the denial.

(5)(a) Any owner, governing body or county assessor affected by a determination of the State Historic Preservation Officer made under ORS 358.487 to 358.543 may request review of the determination:

(A) Pursuant to an appeal process established by the local governing body, if any; or

(B) By the Historic Assessment Review Committee.

(b) After the review described in paragraph (a) of this subsection, any party may request a contested case hearing of the decision according to the provisions of ORS chapter 183. The administrative law judge presiding at the contested case hearing shall determine the final order in the case. [1975 c.514 §5; 1983 c.720 §5; 1995 c.5 §8; 1995 c.693 §5; 1997 c.541 §428; 2001 c.540 §6; 2003 c.75 §87; 2009 c.892 §5]

Note: See note under 358.475.

358.499 Limitations on classification and special assessment as historic property. (1) Property first classified and specially assessed as historic property for a tax year beginning on or before July 1, 1994, shall continue to be so classified, specially assessed and removed from special assessment as provided under ORS 358.487 to 358.543 as those sections were in existence and in effect on December 31, 1992.

(2) Property may be classified and specially assessed under ORS 358.487 to 358.543 pursuant to application filed under ORS 358.487 on or after September 9, 1995, and first applicable for the tax year 1996-1997 or any tax year thereafter.

(3) Property may not be classified and specially assessed pursuant to application filed under ORS 358.487 or 358.540 if the application is filed on or after July 1, 2020. [1995 c.693 §19; 2001 c.540 §7; 2009 c.892 §18]

Note: See note under 358.475.

Note: 358.499 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Reports)

358.500 Reporting requirement; work approval. (1) The owner of property certified for special assessment as historic property under ORS 358.490 shall submit written progress reports concerning the preservation plan to the State Historic Preservation Officer in a form prescribed by the officer on or before December 31 of the third, sixth and ninth years of the historic property special assessment period under ORS 358.487 to 358.543.

(2) In addition to the reports required under subsection (1) of this section, at the end of the first five years for which historic property special assessment is granted, the owner shall submit a report demonstrating compliance with the expenditure commitment under the preservation plan as described in ORS 358.487 (2)(a).

(3)(a) The State Historic Preservation Officer is at all times authorized to demand and receive reports from owners of property classified and specially assessed as historic property under ORS 358.487 to 358.543 as to the continued qualification of the property for historic property classification and special assessment. The content of reports and times for reporting under this subsection shall be determined by the officer. If the owner fails, after 30 days' written notice by mail, return receipt requested, to comply with the officer's demand, the officer shall immediately notify the assessor and the assessor shall withdraw the property from special assessment and apply the penalties provided by ORS 358.525.

(b) The State Historic Preservation Officer may conduct on-site inspections of historic property granted special assessment, with or without cause, upon 30 days' notice.

(4)(a) Before starting any work that is described in a preservation plan or that affects historic features of property certified as historic property pursuant to this chapter, the owner of the property must apply for and receive written approval:

(A) From the local governing body if:

(i) The governing body has a historic preservation ordinance and review process that has been approved by the State Historic

Preservation Officer and under which the historic property is already regulated;

(ii) The proposed work requires historic review by the governing body's historic preservation ordinance and review process; and

(iii) The governing body has not requested that approval of work pursuant to this section be handled by the State Historic Preservation Officer; or

(B) If the conditions in subparagraph (A) of this paragraph have not been met, from the State Historic Preservation Officer.

(b) All work must meet the historic rehabilitation standards.

(5) If the governing body's approval is required under subsection (4) of this section, the governing body shall notify the State Historic Preservation Officer of the proposed work. The governing body shall allow the officer at least 14 days to comment on the proposed work before making a decision on the application. [2009 c.892 §7]

Note: See note under 358.475.

358.502 [1957 c.196 §1; repealed by 1957 c.196 §10]

358.504 [1957 c.196 §3; repealed by 1957 c.196 §10]

(Benefit Computation)

358.505 Determination of specially assessed value, maximum assessed value and assessed value of historic property; appeals. (1)(a) Except as provided in paragraphs (b) and (c) of this subsection, for property certified for special assessment as historic property under ORS 358.490, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the assessed value of the property at the time application was made under ORS 358.487.

(b) If the property certified for special assessment as historic property was exempt or specially assessed at the time the application was made, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax year in which the application was made multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(c) If the property certified for special assessment as historic property is a condominium unit being assessed upon initial sale by the developer, the county assessor shall for the tax years of the remaining term of historic property special assessment list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax

year in which the initial sale took place multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(d) For property certified under ORS 358.490 for a second term of special assessment as historic property under ORS 358.540, the county assessor shall, for 10 consecutive tax years after the date of the filing of the application under ORS 358.487 for the second term, list on the assessment and tax roll a specially assessed value that equals the real market value of the property for the assessment year in which the application is made.

(2)(a) Notwithstanding ORS 308.149 (2), for the first tax year of an initial or second 10-year period of historic property special assessment, the maximum assessed value of property subject to historic property special assessment shall equal the specially assessed value of the property under subsection (1) of this section multiplied by the ratio, not greater than 1.00, of the maximum assessed value the property would have had if the property were not specially assessed over the real market value of the property.

(b) For each tax year after the first tax year during which the property is subject to special assessment as historic property, the property's maximum assessed value equals 103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year, whichever is greater.

(3) The assessed value of property that is classified as historic property for the tax year shall equal the lesser of:

(a) The property's specially assessed value as determined under subsection (1) of this section;

(b) The property's maximum assessed value as determined under subsection (2) of this section; or

(c) The property's real market value as of the assessment date for the tax year.

(4) The entitlement of property to the special assessment provisions of this section shall be determined as of July 1. If the property becomes disqualified on or after July 1, its assessment for that year shall continue as provided in this section.

(5) Assessed value, as defined and determined under ORS 308.146, shall be determined for property classified as historic property by the county assessor each year. The assessed value so determined for any year shall be subject to appeal to the county board of property tax appeals within the time and in the manner provided in ORS chapter 309 and shall be subject to appeal thereafter to the Oregon Tax Court and to the Oregon

Supreme Court within the time and in the manner provided for appeals of value determination for purposes of ad valorem property taxation. [1975 c.514 §6; 1981 c.804 §97; 1983 c.720 §6; 1985 c.565 §63; 1991 c.459 §325; 1995 c.5 §9; 1995 c.650 §80; 1995 c.693 §6; 1997 c.541 §§429,430; 2001 c.540 §8; 2009 c.892 §8]

Note: See note under 358.475.

358.506 [1957 c.196 §4; repealed by 1957 c.196 §10]

358.507 [1997 c.541 §433; repealed by 2001 c.540 §26]

358.508 [1957 c.196 §5; repealed by 1957 c.196 §10]

(Review)

358.509 Review of continued qualification of property by State Historic Preservation Officer. If the county assessor, local landmark commission or governing body has reason to believe that property classified as historic property is not being maintained, rehabilitated or preserved as required under the preservation plan approved for the property, as amended, or as required under rules established by the Department of Revenue or the State Historic Preservation Officer, or otherwise no longer qualifies for classification and special assessment as historic property, the county assessor, local landmark commission or governing body shall request the State Historic Preservation Officer to determine if the property continues to qualify. The request shall be in writing and state the reasons why the continuing qualification is questioned. Upon receipt of the request, the State Historic Preservation Officer may initiate a continuing qualification review. If a review is initiated, the State Historic Preservation Officer or designee of the officer shall inspect the property and may take whatever steps are necessary to determine if the property continues to qualify for special assessment. The State Historic Preservation Officer shall notify the county assessor of the determination made pursuant to the request within 60 days after the request is received. [1979 c.346 §4; 1983 c.720 §7; 1995 c.5 §10; 1995 c.693 §7; 2001 c.540 §9; 2009 c.892 §14]

Note: See note under 358.475.

358.510 [Repealed by 1957 c.196 §2]

358.511 Historic Assessment Review Committee. (1) There is established an Historic Assessment Review Committee consisting of five members appointed by the Governor.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. A member is eligible for reappointment. A member whose term has expired shall continue to serve until a successor has been appointed.

(3) Appointments to the review committee shall be based on representation of interests of the county assessors, the historic preservation community, the State Advisory

Committee on Historic Preservation, the development community and local government.

(4) A majority of the members of the review committee constitutes a quorum for the transaction of business. [1995 c.693 §16; 2001 c.540 §10; 2009 c.892 §15]

Note: See note under 358.475.

Note: 358.511 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

358.512 [1957 c.196 §6; repealed by 1957 c.196 §10]

358.514 [1957 c.196 §7; repealed by 1957 c.196 §10]

(Disqualification)

358.515 Loss of special assessment; notice. (1) When property has once been classified and assessed as historic property pursuant to application filed under ORS 358.487, it remains classified and is granted the special assessment provided by ORS 358.505 until it becomes disqualified for classification and special assessment by:

(a) Expiration of an initial or second 10-year period of special assessment.

(b) Sale or transfer to a governmental or nonprofit entity that is exempt from property taxation.

(c) The destruction or substantial alteration of the property by acts of nature or other events for which the owner is not responsible.

(d) Initial sale of a condominium as provided in ORS 358.543 (3)(b).

(e) Written notice by the taxpayer to the assessor to remove the special assessment.

(f) The owner's failure to maintain, preserve or rehabilitate the property or to comply with the expenditure commitment in accordance with the preservation plan or the historic rehabilitation standards.

(g) The owner's failure to submit required reports.

(h) Failure of the property to be listed in the National Register of Historic Places either individually or as a contributing resource in a listed historic district or property within two years of certification as required under ORS 358.487 (4)(b).

(i) The owner's failure to obtain, or the lapse of, the property insurance required under ORS 358.487 (2)(d).

(j) The owner's demolition of the property.

(k) The owner's substantial alteration of the property in a way that does not meet the historic rehabilitation standards.

(2)(a) When, for any reason, the property or any portion ceases to qualify as historic

property, the owner at the time of change shall notify the assessor and the State Historic Preservation Officer of the change prior to the next January 1 assessment date.

(b) The officer makes final determinations of whether historic property is disqualified for special assessment under ORS 358.487 to 358.543.

(3) Except as provided by subsection (1)(a) of this section, disqualification does not constitute completion of a 10-year period of special assessment certified under ORS 358.490 or preclude a property's future special assessment under ORS 358.487 to 358.543.

(4) The State Historic Preservation Officer shall notify the owner in writing before July 1 of the 10th and final year for which property is certified for special assessment under ORS 358.490 that the special assessment is due to expire and shall outline the options available to the owner upon disqualification upon expiration of an initial or second 10-year period of special assessment, as applicable.

(5) Upon expiration of an initial or second 10-year period of special assessment, the State Historic Preservation Officer shall notify the owner, the governing body and the county assessor that the term has expired. [1975 c.514 §7; 1979 c.346 §1; 1983 c.720 §8; 1991 c.459 §326; 1995 c.5 §11; 1995 c.693 §8; 1997 c.541 §434; 2001 c.540 §11; 2005 c.549 §3; 2009 c.892 §9]

Note: See note under 358.475.

358.516 [1957 c.196 §10; repealed by 1957 c.196 §10]

358.520 [Renumbered 390.220]

(Penalty)

358.525 Imposition of additional taxes upon disqualification; exceptions. (1) Except as provided in subsection (4) of this section, whenever property that has received special assessment as historic property under ORS 358.487 to 358.543 becomes disqualified for assessment as provided in ORS 358.515, there is 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 real property tax:

(a) Additional taxes equal to the difference between the taxes assessed against the property and the taxes that would otherwise have been assessed against the property for each of the last 10 years (or a lesser number of years corresponding to the years of assessment as historic property applicable to the property) as of January 1 of the assessment year for which the property was disqualified for special assessment;

(b) An amount equal to the sum of the interest on each year's additional taxes com-

puted under ORS 311.505 from November 15 of the tax year for which back taxes are being added to July 1 of the tax year of disqualification; and

(c) A penalty in the amount of 15 percent of the amount computed under paragraph (a) of this subsection.

(2) Whenever property that has received special assessment as historic property under ORS 358.505 becomes disqualified for assessment and the notice required by ORS 358.515 (2) is not given, the assessor shall determine the date that the notice should have been given, shall notify the owner thereof and, notwithstanding ORS 311.235, 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, in full payment of all taxes and penalties accruing from the disqualification, the sum of the following:

(a) Additional taxes equal to the difference between the total amount of taxes that would have been due on the property for each year, not to exceed the last 10 years, in which special assessment under ORS 358.505 was in effect for the property (even though erroneously) and the taxes that would have been due had special assessment not been in effect;

(b) An amount equal to the sum of the interest on each year's additional taxes computed under ORS 311.505 from November 15 of the tax year for which additional taxes are being added to July 1 of the tax year of disqualification; and

(c) An additional penalty of 15 percent of the amount in paragraph (a) of this subsection.

(3) Prior to adding to the tax extended against the property on the next general property tax roll any additional amount imposed by subsection (1) or (2) of this section, in the case of disqualification pursuant to ORS 358.515 (1)(f) to (k), the assessor shall notify the owner of the property by mail, return receipt requested, of the disqualification.

(4) Additional tax or penalty may not be imposed under subsection (1) or (2) of this section in the case of property disqualified pursuant to:

(a) ORS 358.515 (1)(a), (b), (c) or (d); or

(b) ORS 358.515 (1)(e) if the written notice is accompanied by proof that the owner has complied with the expenditure commitment under the preservation plan as described in ORS 358.487 (2)(a).

(5) 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.

(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.514 §8; 1979 c.350 §18; 1983 c.720 §9; 1991 c.459 §327; 1995 c.5 §12; 1995 c.693 §9; 1997 c.541 §435; 2001 c.540 §12; 2009 c.892 §10]

Note: See note under 358.475.

358.526 [2001 c.540 §12b; repealed by 2009 c.892 §20]

(Change of Classification)

358.528 Application to change classification as historic property; withdrawal.

When any property has been classified and specially assessed as historic property under ORS 358.487 to 358.543 and the owner or other qualified person applies for a change in the classification under another special assessment program, the applicant shall have 30 days thereafter within which to withdraw the application, by giving written notice to the public official or agency to whom the applicant applied for the change in classification. If no 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. [1999 c.314 §48; 2001 c.540 §13; 2009 c.892 §16]

Note: See note under 358.475.

358.530 [Repealed by 1959 c.242 §1]

358.535 [1975 c.514 §9; 1995 c.5 §13; 1995 c.693 §10; 2001 c.540 §14; repealed by 2009 c.892 §20]

(Second Term)

358.540 Requirements for second term of historic property special assessment.

(1) Property classified as historic property under ORS 358.487 to 358.543 is entitled to any other exemption or special assessment provided by law.

(2) Property that has been certified for special assessment under ORS 358.490 and received special assessment under ORS 358.505 for 10 years, at the completion of the 10-year term, is disqualified from historic property special assessment.

(3)(a) Notwithstanding subsection (2) of this section, following completion of the initial 10-year period of historic property classification and disqualification under subsection (2) of this section, the owner of property classified as historic property may reapply under ORS 358.487 for one additional 10-year period of special assessment under ORS 358.487 to 358.543.

(b) Following completion of the second 10-year term of special assessment, the historic property is disqualified from historic property special assessment and is not again

eligible for special assessment under ORS 358.487 to 358.543.

(4) An application filed under subsection (3) of this section must be filed in the manner provided under ORS 358.487 and be accompanied by a preservation plan detailing:

(a) Improvements to the historic property that:

(A) Promote compliance with the Americans with Disabilities Act;

(B) Will result in seismic improvement; or

(C) Will result in improvements in energy conservation or sustainability;

(b) The costs associated with the improvements, which costs are in an amount not less than 10 percent of the historic property's real market value determined as of the date of the application filed under subsection (3) of this section; and

(c) A schedule of the dates on which work on the improvements will be begun and completed.

(5)(a) An application filed under subsection (3) of this section may be approved only upon a finding by the State Historic Preservation Officer that the preservation plan submitted with the application pursuant to subsection (4) of this section will, if implemented, result in a significant investment in the historic property that promotes compliance with Americans with Disabilities Act or that results in seismic improvements or improvements in energy conservation or sustainability to the property.

(b) For residential property, an application filed under subsection (3) of this section that is otherwise in compliance with the application requirements may be approved only if a second term of historic property classification and special assessment is not prohibited under ORS 358.541.

(6) An application for a second 10-year period of special assessment as historical property shall be certified in accordance with ORS 358.490.

(7) A determination under ORS 358.490 with respect to an application for a second 10-year period of special assessment as historical property is subject to the notice, certification and filing requirements and review rights described in ORS 358.495.

(8) The owner of property certified for a second 10-year period of special assessment under this section is subject to the reporting requirements under ORS 358.500.

(9) Property certified for a second 10-year period of special assessment under this section is subject to penalties upon disqualification as provided by ORS 358.525. [1975 c.514

§10; 1983 c.720 §10; 1995 c.5 §14; 1995 c.693 §11; 2001 c.540 §15; 2005 c.549 §1; 2007 c.718 §2; 2009 c.892 §11]

Note: See note under 358.475.

Note: See second note under 358.487.

Note: Section 33, chapter 579, Oregon Laws 1999, provides:

Sec. 33. (1) The owner of a property receiving special assessment under ORS 358.475 to 358.545 (1999 Edition) who purchased the property within the five-year period immediately prior to the effective date of this 1999 Act [October 23, 1999] may file a reapplication under ORS 358.540 within one year following the effective date of this 1999 Act for classification and special assessment of the property as historic property for an additional 15-year period under ORS 358.540.

(2) Notwithstanding ORS 358.505 and 358.507 (1999 Edition), following approval of the reapplication by the State Historic Preservation Officer, the property shall be assessed for the additional 15-year period of historic property classification at the assessed value of the property at the time the property was purchased, as determined under ORS 358.475 to 358.545 (1999 Edition).

(3) Notwithstanding subsection (2) of this section, for any tax year within the additional 15-year period, property shall be assessed at a lesser value than the assessed value determined under subsection (2) of this section if the lesser value is required pursuant to section 11, Article XI of the Oregon Constitution. [1999 c.579 §33]

358.541 City or county prohibition of second term. (1) Residential property may not qualify for a second term of classification and special assessment as historic property under this section:

(a) If the property is located within a city, the governing body of which has adopted a resolution or ordinance prohibiting a second term of historic property classification and special assessment for residential property; or

(b) If the property is located within unincorporated territory of a county, the governing body of which has adopted a resolution or ordinance prohibiting a second term of historic property classification and special assessment for residential property.

(2) The city or county prohibiting a second term of historic property classification and special assessment for residential property shall send a copy of the prohibiting resolution or ordinance to the State Historic Preservation Officer. [2005 c.549 §2; 2007 c.718 §3; 2009 c.892 §12]

Note: See note under 358.475.

Note: See second note under 358.487.

Note: 358.541 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 358 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Miscellaneous)

358.543 Assessment of new construction and additions; condominiums. (1)(a) The value of new construction or additions to historic properties certified for special assessment under ORS 358.487 to 358.543 is as

sessed in the same manner as the original historic property under ORS 358.505 if the additions or new construction:

(A) Were included in the preservation plan approved pursuant to ORS 358.540; and

(B) Meet the historic rehabilitation standards as defined in ORS 358.480.

(b) Notwithstanding paragraph (a) of this subsection, additions or new construction are not assessed under ORS 358.505 if the local governing body or the State Historic Preservation Officer, in accordance with ORS 358.500 (4), determines that the additions or improvements are:

(A) Sited on the property in a manner more suitable for primary historic buildings in the area;

(B) Of a size or scale more appropriate to primary historic buildings in the area; or

(C) Independent structures as determined by use or ownership.

(c) If additions or new construction described in paragraph (b) are disqualified for any reason listed in ORS 358.515 (1), the entire property may be disqualified for historic property special assessment.

(2)(a) Buildings divided into condominiums are eligible for special assessment as historic property under ORS 358.505 only in their entirety on the basis of one application pursuant to ORS 358.487.

(b) No individual condominium unit owner may opt out at the time of certification pursuant to this chapter or seek disqualification once the building has been certified. At the time application is made, a letter to this effect must be delivered to each condominium unit owner.

(3)(a) When a building that is certified as historic property is divided into condominium units, the assessor shall calculate the specially assessed value of the entire building pursuant to ORS 358.505 (1)(a) or (b), as applicable.

(b) Initial sale of a condominium unit by the developer disqualifies the unit within the meaning of section 11 (1)(c)(E), Article XI of the Oregon Constitution.

(c) Upon disqualification due to initial sale, the condominium unit is requalified without further application for the remaining term of the current 10-year period of historic property special assessment.

(d) Upon requalification after initial sale, the assessor shall calculate the specially assessed value of the condominium unit pursuant to ORS 358.505 (1)(c).

(e) Upon sale of individual condominium units, a notice of the building's classification and special assessment as historic property

in its entirety must be attached to each deed. Recording fees for all condominium units must be paid by the condominium association.

(4) If the building qualifies for a second 10-year period under ORS 358.540, each condominium unit is separately assessed pursuant to the applicable provisions of ORS 358.505. [1983 c.720 §§12,13; 1991 c.459 §329; 1995 c.5 §15; 1995 c.693 §12; 1999 c.314 §87; 2001 c.540 §16; 2007 c.70 §151; 2009 c.892 §13]

Note: See note under 358.475.

358.545 Rules. The Director of the Department of Revenue and the State Historic Preservation Officer shall adopt rules within their areas of expertise as necessary to carry out the purposes of special assessment under ORS 358.487 to 358.543. [1975 c.514 §11; 1995 c.5 §16; 1995 c.693 §13; 2001 c.540 §17; 2009 c.892 §17]

Note: See note under 358.475.

358.565 State Historic Preservation Officer. (1) The Governor shall designate a State Historic Preservation Officer who shall serve at the pleasure of the Governor. In case of vacancy, the Governor shall designate a successor.

(2) The State Historic Preservation Officer shall appoint a staff of persons well qualified in history, architectural history, architecture, archaeology and education as technical assistants and analysts.

(3) In addition to the powers and duties assigned to the State Historic Preservation Officer under ORS 358.480 to 358.545, the State Historic Preservation Officer shall perform whatever functions as are authorized by law. [1975 c.514 §12; 1983 c.268 §2; 2001 c.540 §18]

OREGON HERITAGE COMMISSION

358.570 Oregon Heritage Commission; establishment; terms of commission members. (1) To assure the conservation and development of Oregon's heritage there is established in the State Parks and Recreation Department the Oregon Heritage Commission consisting of nine voting members appointed by the Governor and eight ex officio members as described in ORS 358.575.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the commission is entitled to actual and necessary travel and other expenses as provided in ORS 292.495. [1995 c.428 §1; 1997 c.112 §1]