

CHAPTER 5

Taxes

TRANSIENT ROOM TAX

- 5.005 Definitions
- 5.010 Tax Imposed
- 5.012 Dedicated Funds
- 5.017 County Transient Lodging Tax Not Applicable in Cities
- 5.025 Collection of Tax by Operator; Rules for Collection
- 5.030 Operator's Duties
- 5.035 Exemptions from Tax
- 5.040 Registration of Operator; Form and Contents; Execution; Certificate of Authority
- 5.045 Due Date; Returns; Payments
- 5.050 Penalties and Interest
- 5.055 Deficiency Determinations; Evasion; Operator Delay
- 5.060 Redeterminations
- 5.065 Security for Collection of Tax
- 5.070 Lien
- 5.075 Refunds
- 5.080 Collection Fee
- 5.085 Administration; Records Kept and Available for Inspection
- 5.090 Transient Lodging Tax Review Committee; Appeal; Rules and Procedure
- 5.095 Duties of Committee
- 5.100 Appeal to Transient Lodging Tax Review Committee
- 5.105 Violations
- 5.110 Penalties

WASTE OR ABANDONMENT OF TAX FORECLOSED REAL PROPERTY

- 5.200 Procedure for Early Termination of Property Tax Foreclosure Redemption Period for Waste or Abandonment

TRANSIENT ROOM TAX

5.005 Definitions

As used in LCC 5.005 to 5.110, unless the context requires otherwise:

(1) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for transient occupancy for 30 days or less, for dwelling, lodging, or sleeping purposes, and includes any hotel, motel, inn, condominium, tourist home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also means space in mobile home, recreational vehicle, or trailer parks, or similar structure or space or portions thereof so occupied.

(2) "Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in any mobile home, recreational vehicle, or trailer park, or similar structure or space, or portions thereof.

(3) "Operator" means the person who is the proprietor of the hotel in any capacity. If the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with provisions of this chapter, either by the principal or the managing agent shall be considered to be compliance by both.

(4) "Cash accounting" means the operator does not enter the rent due from the transient on his records until rent is paid.

(5) "Accrual accounting" means the operator enters the rent due from the transient on his records when the rent is earned, whether or not it is paid.

(6) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit so long as the charges are made in connection with space occupancy.

(7) "Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this chapter shall be the same charge made for rent when consideration is not a part of the package plan. The amount applicable to rent for determination of transient room tax under this chapter shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

(8) "Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

(9) "Tax administrator" means the Lincoln County Board of Commissioners, or its designee.

(10) "Transient" means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the 30-day period if the transient is not charged rent that day by the operator. Any individual so occupying space in a hotel shall be deemed to be a transient until the 30-day period has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in such month, shall not be deemed a

transient. An owner of a condominium unit, or any other person residing in the same, who is required to pay any consideration for the use of the unit, shall be deemed a transient.

(11) "Transient Lodging Tax Review Committee" means the Board of County Commissioners, or, if it so elects, a committee composed of an accountant, an attorney, and three other persons appointed by the Board and may be owners or operators of a "hotel" as defined in subsection (1) of this section. [1991 o.301 § 1]

5.010 Tax Imposed

For the privilege of occupancy in any hotel in Lincoln County, each transient shall pay a tax in the amount of nine percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county which is extinguished only by payment by the operator to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on the operator's records when rent is collected if the operator keeps the records on a cash accounting basis and when earned if the records are kept on an accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services, and commodities, other than the furnishing of rooms and accommodations. [1991 o.301 § 1; 2007 o.449 § 1]

5.012 Dedicated Funds

(1) One-third of the taxes collected under these code provisions shall be disbursed in the following manner:

- (a) Thirty percent to the County General Fund;
- (b) Thirty percent to the Oregon Coast Aquarium for ongoing operating support; and
- (c) Forty percent in an account separate from all other accounts of the county to be known as the Fairgrounds Facilities Improvement Fund to be disbursed at the direction of the Board of Commissioners for the purpose of facilities available for a fair or, in the event there is no fair, for other tourism related facilities as allowed by law.

(2) Of the remaining two-thirds of the taxes collected under these code provisions, 16.66 shall be disbursed at the direction of the Board of Commissioners for the purpose of tourism promotion and economic development to the Central Oregon Coast Association and the Economic Development Alliance of Lincoln County, or other appropriate entities as determined by the Board. [1991 o.301 § 2; 2007 o.449 § 2]

5.015 [repealed 2007 o.449 § 5]

5.017 County Transient Lodging Tax Not Applicable in Cities

The transient lodging tax imposed by this chapter shall apply only to transient occupancy within the unincorporated area of Lincoln County. [2007 o.449 § 4]

5.020 [repealed 2007 o.449 § 5]

5.025 Collection of Tax by Operator; Rules for Collection

(1) Every operator renting rooms or space for lodging or sleeping purposes in this county, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the

occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the county.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectibles.

(3) The tax administrator shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.

(4) For rent collected on portions of a dollar, fractions of a penny shall not be remitted.

(5) In instances where credit is extended to the transient for charges for rental through the use of a credit card or other similar transaction whereby the amount paid to the operator is discounted by contract between the operator and the issuer of the credit card, the amount of such discount shall be excluded from the definition of "rent" and no tax shall be imposed on the amount so discounted.

5.030 Operator's Duties

Each operator shall collect the tax imposed by this chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. ~o operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.

5.035 Exemptions from Tax

No tax imposed under this chapter shall be imposed upon:

(1) Any occupant for more than 30 successive calendar days with respect to any rent imposed for the period commencing after the first 30 days of such occupancy.

(2) Any occupant whose rent is of a value less than \$2 per day.

(3) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidental to his own use thereof, except that this exemption shall not apply to condominium units.

(4) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home, or home for the aged, or to a public institution or public accommodation owned and operated by a unit of government in its governmental capacity.

(5) The United States of America, a body politic and sovereign. This exemption shall likewise apply with respect to any agency or instrumentality of the United States of America which is entitled to exemption under the provisions of the Federal Constitution. However, such exemption shall apply only in those instances in which the United States Government or an agency or instrumentality thereof shall enter into an agreement for the rental of such lodgings and shall pay the costs thereof directly to the hotel or other entity providing such lodging. No exemption is created hereunder merely because the transient occupant of such room is an employee or is on the business of the United States of America or any agency or instrumentality thereof or because such party shall be entitled to reimbursement for such costs. [1991 o.301 § 1]

5.040 Registration of Operator; Form and Contents; Execution; Certificate of Authority

Every person engaging or about to engage in business as an operator of a hotel in the county shall register with the tax administrator within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall be on a form provided by the administrator and shall set forth the name under which the operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate collection of the tax as the tax administrator may require. The registration shall be signed by the operator. The tax administrator shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and non transferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. The certificate shall include the following:

- (1) The name of the operator;
- (2) The address of the hotel;
- (3) The date upon which the certificate was issued; and

(4) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Room Tax Regulations of chapter five of the Lincoln County Code, by registration with the tax administrator for the purpose of collection from transients the lodging tax imposed by said county and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of the county. This certificate does not constitute a permit."

5.045 Due Date; Returns; Payments

(1) The tax imposed by this chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the 15th day of the following month for the preceding three months; and, are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify or district the operators for determination of applicable tax periods, and shall notify each operator of the due and delinquent dates for the operator's returns. The initial return under this chapter may be for less than the three months preceding the due date; thereafter, returns shall be made for the applicable quarterly period.

(2) On or before the 15th day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the tax administrator. The return shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amounts and the amount of rents exempt, if any.

(4) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(5) For good cause, the tax administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the Transient Lodging Tax Review Committee. Any operator to whom an extension is granted shall pay interest at the rate of one-half of one percent per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this chapter.

(6) If it is deemed necessary in order to ensure payment or facilitate collection by the county of the amount of taxes, the tax administrator, in an individual case, may require returns and payment for other than quarterly periods.

5.050 Penalties and Interest

(1) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay 10 percent of the amount of the tax due in addition to the amount of the tax.

(2) Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay a delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15 percent of the amount of the tax due plus the tax and the 10 percent penalty first imposed.

(3) If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this section.

(4) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1 percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(5) Every penalty imposed and Such interest as accrued under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(6) Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided, however, the operator may petition the Transient Lodging Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Transient Lodging Tax Preview Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

5.055 Deficiency Determinations; Evasion; Operator Delay

(1) If the tax administrator determines that the returns are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the return or returns or upon the basis of any information in the possession of the administrator. One or more deficiency determinations may be made of the amount due for one, or more than one, period and the amount so determined shall be due and payable immediately upon service of notice as herein provided after

which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in LCC 5.050.

(a) In making a determination, the tax administrator may offset overpayment, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the under payments. The interest on under payments shall be computed in the manner set forth in LCC 5.050.

(b) The tax administrator shall give to the operator or occupant a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at an address as it appears on the records of the tax administrator and shall be mailed by certified mail, postage prepaid, return receipt requested.

(c) Except in the case of fraud or intent to evade this chapter or authorized rules, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever is later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the operator may petition redemption and refund if petition is filed before determination becomes final as herein provided.

(2) If any operator shall fail or refuse to collect the tax or to make, within the time provided in this chapter, any report or remittance of the tax or any portion thereof required by this chapter, or makes a fraudulent return, or otherwise willfully attempts to evade this chapter, the tax administrator shall proceed in such manner deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit the tax, the tax administrator shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter. When determination is made, notice shall be given as provided in subsection (1)(b) of this section of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery of any fraud, intent to evade, or failure or refusal to collect the tax or failure to file a return. Any determination shall become due and payable upon receipt of notice and shall become final within 20 days after the tax administrator has given notice thereof; provided, however, the operator may petition for redemption refund if the petition is filed before the determination becomes final as herein provided.

(3) If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the county will be jeopardized by delay, or if any determination will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable and the operator shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 20 days from the date of service of notice by the tax administrator.

5.060 Redeterminations

(1) Any person against whom a determination is made under LCC 5.055, or any person directly interested may petition for a redetermination and redemption and refund within the time required in LCC 5.055. If a petition for redetermination and refund is not filed within the time required in LCC 5.055, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and, if the person has so requested in his petition, shall grant the person a public hearing and shall give him 20-days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

(3) The tax administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined each increase shall be payable immediately after the hearing.

(4) The order or decision of the tax administrator upon a petition for redetermination of redemption and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Transient Lodging Tax Review Committee within 20 days after the service of such notice.

(5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions of this chapter.

5.065 Security for Collection of Tax

(1) To ensure compliance with this chapter, the tax administrator may deem it necessary to require an operator to deposit with the county security in a form and amount determined by the tax administrator. The amount of the security shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, or \$5,000, whichever amount is lesser. The amount of security may be increased or decreased by the tax administrator subject to limitations herein provided.

(2) At any time within three years after any tax, or any amount of tax required to be collected, becomes due and payable, or at any time within three years after a determination becomes final, the tax administrator may bring an action in the courts of this state, any other state, or of the United States in the name of the county to collect the amount delinquent plus penalties and interest, reasonable attorneys' fees determined by the court, and court costs.

5.070 Lien

(1) The tax imposed by this chapter together with the interest and penalties, reasonable attorneys' fees, filing fees, and advertising costs shall be and, until paid, remain a lien from the date of its recording with the clerk, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator within the county, and may be foreclosed on and sold as may be necessary to discharge said lien. Upon the recording of the lien with the county clerk, notice of the lien shall be issued by the tax administrator whenever the operator is in default in the payment of the tax, interest, and/or penalty. A copy of the notice shall be sent by certified mail to the operator. The tax administrator may send notice of the lien to condominium owners affected by the lien. The personal property subject to a lien seized by any deputy or employee of the tax administrator may be sold at public auction after 10-days' notice by one publication in a newspaper of general circulation published in the county. Any lien for taxes shown on the records of the proper county official shall, upon payment of all taxes, penalties, and interest thereon, be released

by the tax administrator when the full amount determined to be due has been paid to the county and the operator or person making such payment shall have a receipt thereon stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is hereby released and the record of lien is satisfied.

(2) The lien or liens created by this section attach to all tangible personal property referenced herein. The lien or liens created shall also attach to the proceeds of the sale of tangible personal property subject to the lien or liens if:

(a) Subsequent to the recording of the lien or liens, tangible personal property, or any part thereof, is sold or delivered to an agent, broker, cooperative agency, or other person to be sold or otherwise disposed of; and

(b) The purchaser, agent, broker cooperative agency, or other person has actual or constructive notice of the filing of the lien or liens, and the proceeds that were received or will be received from the sale or other disposal of the tangible personal property have not been delivered to the owner of the tangible personal property.

(3) When a lien created by this section attaches to the proceeds of a sale of tangible personal property under subsection (2)(a) and (b) of this section, a purchaser, agent, broker, cooperative agency, or other person shall not deliver the proceeds or that portion of the proceeds equal to the amount of the lien claim to the owner until:

(a) A time specified by LCC 5.065(2) during which a suit to foreclose the lien must be commenced elapses;

(b) A court orders delivery of the proceeds; or

(c) The tax administrator issues a receipt stating that the full amount of taxes, interest, penalties, and costs thereon have been paid and that the lien is released and the record of lien is satisfied.

(4) Any person to whom a notice of lien has been given as provided by this section, who dismantles, removes from the county, misdelivers, or conceals tangible personal property or the proceeds of the sale of tangible personal property upon which there is a valid lien without the written consent of the lien claimant shall be liable to the lien claimant for damages proximately resulting therefrom which sum may be recovered according to the provisions of LCC 5.065(2). [1982 o.174 §1]

5.075 Refunds

(1) Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under this chapter, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his administrators, executors, or assigns.

(2) Whenever the tax required by this chapter has been collected by an operator, and deposited by the operator with the tax administrator, and it is later determined that the tax was erroneously paid or illegally collected or received by the administrator, it may be refunded by the tax administrator to the transient, provided a verified claim in writing, stating the specific reason on

which the claim is founded, is filed with the tax administrator within three years from the date of payment.

(3) Whenever the tax required by this chapter has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the tax administrator. If the operator has remitted the tax prior to the refund or credit to the tenant, he shall be entitled to a corresponding refund under this section.

5.080 Collection Fee

Every operator liable for collection and remittance of the tax imposed by this chapter may withhold 5 percent of the net tax collected, to cover the operator's expense in collection and remittance of the tax.

5.085 Administration; Records Kept and Available for Inspection

(1) The tax administrator shall deposit all money collected pursuant to this chapter to the credit of the Transient Room Tax Fund.

(2) Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

(3) The tax administrator, or an authorized deputy, may examine during business hours the books, papers, and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(4) It shall be unlawful for the tax administrator or any person having an administrative or clerical duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy thereof, or any book containing an abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:

(a) The disclosure or examination of records and equipment by another county official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter or collection of taxes.

(b) The disclosure, after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assigns, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax, or amount of tax required to be collected, or interest and penalties; further provided, however, that the county attorney approves each such disclosure and that the tax administrator may refuse to make any disclosure referred to under this paragraph when in his opinion the public interest would suffer thereby.

(c) The disclosure of the names and addresses of any persons to whom Transient Occupancy registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the county.

5.090 Transient Lodging Tax Review Committee; Appeal; Rules and Procedure

The Board is authorized to create a Transient Lodging Tax review Committee composed of an attorney, who may be a county employee; an accountant; an operator; and, two lay members. If a committee is not created, the Board shall perform all duties and have all powers given to the committee by this chapter. The committee shall select from its members a chairman who shall serve at its pleasure. Three members of the committee shall constitute a quorum. The committee shall keep a record of its transactions. The committee shall be deemed to be in the office of the tax administrator and shall keep its files in that office. The members of the committee shall not, at any time, receive any compensation as such members or acting members for their services on the committee. The committee shall be appointed by the Board and shall serve 4-year terms, except that, the accountant, the attorney, and the operator appointed to the first committee shall serve 3-year terms only.

5.095 Duties of Committee

The committee shall have power and its duty shall be:

(1) To hear and determine appeals of orders or decisions of the tax administrator made upon petitions for redetermination of tax. The committee may affirm, modify, or reverse such orders or decisions, or dismiss the appeals, as may be just, and shall prescribe such forms, rules, and regulations relating to appeals as may be deemed necessary. In the review of the tax administrator decision or order, the committee may take such evidence and make such investigation as is deemed necessary. It shall give notice of its determinations in the manner set forth in LCC 5.055 and shall file a copy of such determination with the tax administrator with certification thereon of the date of service thereof. Such determination shall become final 20 days thereafter and shall thereupon become due and payable subject to interest penalties and enforceable by the tax administrator as set forth in LCC 5.055.

(2) To approve, modify, or disapprove all forms, rules, and regulations prescribed by the tax administrator in the administration and enforcement of this chapter.

(3) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form, rule, or regulation approved or prescribed by the committee.

(4) To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules there for.

(5) To make such investigations as are deemed advisable regarding the imposition and administration of the transient lodging tax and report the findings to the Board; to act in an advisory capacity to the Board on matters pertaining to the transient lodging tax and enforcement problems and to recommend to the Board the adoption, amendment, or repeal of regulations pertaining thereto.

5.100 Appeal to Transient Lodging Tax Review Committee

Any person aggrieved by any decision of the tax administrator may appeal to the Transient Lodging Tax Review Committee by filing notice of appeal with the tax administrator within 20

days of the serving or mailing of the tax notice of a decision given by the tax administrator. The tax administrator shall fix a time and place for hearing such appeal and shall give the appellant 20-days' written notice of the time and place of hearing.

5.105 Violations

It is unlawful for any operator to fail to register, furnish any required return, furnish a supplemental return, or other data required by the tax administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.

5.110 Penalties

In addition to the collection proceedings which are provided for in LCC 5.065, the failure to comply with the transient room tax of this chapter shall be punishable pursuant to LCC chapter 10. [1982 o.171 §1]

WASTE OR ABANDONMENT OF TAX FORECLOSED REAL PROPERTY

5.200 Procedure for Early Termination of Property Tax Foreclosure Redemption Period for Waste or Abandonment

(1) Pursuant to ORS 312.122, County Counsel may initiate proceedings before the Board of Commissioners to require the Lincoln County Tax Collector to deed to the County, pursuant to ORS 312.200, any real property foreclosed by the County under ORS 312.100 after the expiration of the 30-day period provided in subsection (2) of this section if:

(a) The property is subjected to waste which results in a forfeiture to the County of the right to possession of the property under ORS 312.180; or

(b) The property is not occupied by the owner or any person or entity that appears in the records of the County to have a lien or other interest in the property for a period of six consecutive months, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.

(2)(a) If property is believed to be subject to waste or abandonment as provided in subsection (1) of this section, County Counsel may set a hearing for the purpose of determining whether the property should be deeded to the County pursuant to subsection (1) of this section.

(b) The owner and any person or entity that appears in the records of the County to have a lien or other interest in the property shall be given an opportunity to be heard at the hearing provided in paragraph (a) of this subsection.

(c) If the Board determines after the hearing provided in paragraph (a) of this subsection that the property is subject to waste or abandonment as provided in subsection (1) of this section, the Board shall provide that any rights of possession the owner may have in the property are forfeited and direct the property be deeded to the county by the Lincoln County Tax Collector after expiration of a period of 30 days from the date of the action of the Board unless it is sooner redeemed by the owner or any person or entity that then appears in the records of the county to have a lien or other interest in the property. Pursuant to ORS 312.122(2)(c), all rights of redemption with respect to the real property described in that deed shall terminate on the execution of the deed to the County.

(3) Not less than 30 days prior to the hearing provided in subsection (2) of this section, County Counsel shall notify the owner and any person or entity that then appears in the records of the county to have a lien or other interest in the property of the hearing. The notice shall contain:

(a) The date, time and place of the hearing provided for in subsection (2) of this section;

(b) The date of the judgment and decree;

(c) The normal date of expiration of the period of redemption under ORS 312.120;

(d) Warning to the effect that if the Board determines that the property is subject to waste or abandonment as provided in subsection (1) of this section, the property will be deeded to the County immediately after the expiration of 30 days from the date of the Board action, and that every right or interest of any person in the property will be forfeited forever to the County unless the property is redeemed within that 30-day period;

(e) A legal description of the property and a tax account number; and

(f) The name of the owner as it appears on the latest tax roll.

(4) The notice required to be given under subsection (3) of this section shall be given by both certified mail and by regular first class mail.

(5)(a) If the notice required under subsection (3) of this section is to be given to an owner, the notice shall be addressed to the owner or owners, as reflected in the county deed records, at the true and correct address of the owner as appearing on the instrument of conveyance under ORS 93.260, or as furnished under ORS 311.555, or as otherwise ascertained by the Lincoln County Tax Collector pursuant to ORS 311.560.

(b) If the person or entity to whom the notice is required under subsection (3) of this section to be given is a lienholder, or person or entity other than the owner, having or appearing to have a lien or other interest in the property, the notice shall be addressed to the lienholder, person or entity at the address which the County knows or after reasonable inquiry, has reason to believe to be the address at which the lienholder, person or entity will most likely receive actual notice.

(6) Pursuant to ORS 312.122(6), for purposes of subsection (5)(b) of this section, if the lienholder is a corporation or a limited partnership, County Counsel shall be considered to have made reasonable inquiry if the notice is mailed to the registered agent or last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Corporation Commissioner (the Corporations Division of the Oregon Secretary of State) or, if the corporation or limited partnership is not authorized to transact business in this state, to the principal office or place of business of the corporation or limited partnership.

(7) As used in this section, "records of the County" has that meaning given in ORS 312.125 (7). [2003 o.422 §2]