

A-Engrossed
House Bill 3551

Ordered by the House June 22
Including House Amendments dated June 22

Sponsored by Representatives BOONE, HOLVEY, NOLAN, Senators CARTER, DECKERT (at the request of Housing Alliance: Association of Oregon Community Development Organizations, Association of Oregon Housing Authorities, CASA of Oregon, Central City Concern, City Club of Portland, City of Ashland, City of Beaverton, City of Medford Housing and Community Development Commission, City of Portland, City of Talent, Clackamas Land Trust, Clackamas Housing Action Network, Coalition for a Livable Future, Community Action Directors of Oregon, Community Alliance of Tenants, Community Development Network, Community Housing Fund, Community Partners for Affordable Housing, Ecumenical Ministries of Oregon, Enterprise Community Partners Inc., Habitat for Humanity of Oregon, Homeless Families Coalition, Housing Advocacy Group of Washington County, Housing Development Center, Interfaith Committee on Homelessness, Jackson County Housing Coalition, Lane County Legal Aid and Advocacy Center, League of Oregon Cities, League of Women Voters of Oregon, Lincoln County, METRO, Multnomah County, Neighborhood Economic Development Corp., Neighborhood Partnership Fund, Network for Oregon Affordable Housing, Northwest Community Land Trust Coalition, Northwest Housing Alternatives, Oregon Action, Oregon Council on Developmental Disabilities, Oregon Coalition on Housing and Homelessness, Oregon Food Bank, Portland Community Land Trust, Portland Community Reinvestment Initiatives Inc., Portland Impact, REACH CDC, Rogue Valley CDC, Rose CDC, St. Vincent DePaul of Lane County, Shelter Care)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes fee for recording of documents in deed and mortgage records of county. Directs county clerk to transfer amounts collected to Housing and Community Services Department to fund housing programs of department.

Modifies affordable housing programs and requires rulemaking.

Increases biennial limitation on expenditures from fees, moneys or other revenues, including Miscellaneous Receipts and certain federal funds, but excluding lottery funds and other federal funds, collected or received by department.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to public programs for housing; amending ORS 205.323, 294.184, 294.187, 306.815, 456.720,
3 458.610 and 458.655; limiting expenditures; prescribing an effective date; and providing for re-
4 venue raising that requires approval by a three-fifths majority.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 205.323 is amended to read:

7 205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320
8 and other fees, the **county clerk shall charge and collect the** following fees [*shall be charged and*
9 *collected*] for the recording or filing of any instrument described in ORS 205.130:

10 (a) A fee of \$1, to be credited as provided in subsection [(3)(a)] **(4)(a)** of this section; [*and*]

11 (b) A fee of \$10, to be credited as provided in subsection [(3)(b)] **(4)(b)** of this section; **and**

12 **(c) A fee of \$15, to be credited as provided in subsection (4)(c) of this section.**

13 (2) Subsection (1) of this section does not apply to the recording or filing of the following:

14 (a) Instruments that are otherwise exempt from recording or filing fees under any provision of
15 law;

16 (b) Any satisfaction of judgment or certificate of satisfaction of judgment; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) Internal county government instruments not otherwise charged a recording or filing fee.

2 **(3) Subsection (1)(c) of this section does not apply to the recording or filing of:**

3 **(a) Instruments required under ORS 517.210 to maintain mining claims;**

4 **(b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and**
5 **657.646; or**

6 **(c) A certified copy of a judgment, a lien record abstract as described in ORS 18.170 or**
7 **a satisfaction of a judgment, including a judgment noticed by recordation of a lien record**
8 **abstract.**

9 [(3)] (4) Of the amounts charged and collected under this section:

10 (a) The recording or filing fee charged and collected under subsection (1)(a) of this section
11 [shall] **must** be deposited and credited to the Oregon Land Information System Fund established
12 under ORS 306.132[; and].

13 (b) [Of the recording or filing fee charged and collected under subsection (1)(b) of this section,] **The**
14 **recording or filing fee charged and collected under subsection (1)(b) of this section shall be**
15 **credited as follows:**

16 **(A) Five percent [shall] of the fee must** be credited for the benefit of the county[.];

17 **(B) Five percent [shall] of the fee must** be credited for the benefit of the county clerk for the
18 purposes described in ORS 205.320 (18); and

19 **(C) 90 percent [shall be deposited and] of the fee must be** credited to **and deposited in** the
20 County Assessment and Taxation Fund created under ORS 294.187.

21 **(c) The recording or filing fee charged and collected under subsection (1)(c) of this sec-**
22 **tion must be credited to and deposited in the County Assessment and Taxation Fund created**
23 **under ORS 294.187.**

24 **SECTION 2.** ORS 294.184 is amended to read:

25 294.184. (1) There is created under ORS 293.445 a suspense account to be known as the County
26 Assessment Function Funding Assistance Account. The account shall consist of:

27 (a) All moneys paid over by the county treasurers as provided under ORS 294.187 **(2)(a)**; and

28 (b) All interest earned upon any moneys in the account.

29 (2) Of the moneys in the account as of the last day of each fiscal quarter, the moneys necessary
30 to pay the following Department of Revenue expenses shall be transferred to a suspense account of
31 the department created under ORS 293.445 and are continuously appropriated to the department for:

32 (a) Expenses incurred in carrying out the purposes of ORS 294.175 to 294.184; and

33 (b) Appraisal expenses incurred by the department in appraising principal and secondary indus-
34 trial properties identified under ORS 306.126 and property of centrally assessed companies under
35 ORS 308.505 to 308.665.

36 (3) The total amount of moneys transferred to the suspense account of the department under
37 subsection (2) of this section may not exceed 10 percent of the moneys in the account as of the last
38 day of the fiscal quarter for which the transfer is being made.

39 (4) The remainder of the moneys in the account as of the last day of the fiscal quarter shall be
40 used for the purpose of making the grant payments to counties as required under ORS 294.178 and
41 are continuously appropriated to the department for that purpose.

42 **SECTION 3.** ORS 294.187 is amended to read:

43 294.187. (1) There is created in the county treasury of each county a fund to be known as the
44 County Assessment and Taxation Fund. The fund shall consist of:

45 (a) Moneys deposited **in** and credited to the fund under ORS 311.508.

1 (b) Moneys deposited **in** and credited to the fund under ORS 205.323 **(4)(b)(C)**.

2 (c) **Moneys deposited in and credited to the fund under ORS 205.323 (4)(c)**.

3 [(c)] **(d)** Interest earned upon moneys credited to the fund.

4 (2) The county treasurer shall pay over the moneys in the fund, determined as of the last day
5 of the fiscal quarter, [*to the State Treasurer*] on or before the 10th day of the month following the
6 last day of the fiscal quarter[.] **as follows:**

7 **(a) Moneys collected under subsection (1)(a) and (b) of this section and interest earnings**
8 **on those moneys must be paid over to the Department of Revenue for deposit in the County**
9 **Assessment Function Funding Assistance Account created under ORS 294.184.**

10 **(b) Moneys collected under subsection (1)(c) of this section and interest earnings on those**
11 **moneys must be paid over to the Housing and Community Services Department for**
12 **housing-related programs as follows:**

13 **(A) 76.75 percent of the moneys must be deposited in the Housing Development Account**
14 **established under ORS 456.720;**

15 **(B) 10 percent of the moneys must be deposited in the Emergency Housing Account cre-**
16 **ated under ORS 458.620; and**

17 **(C) 13.25 percent of the moneys must be deposited in the Home Ownership Assistance**
18 **Account created under ORS 458.620.**

19 [(3) *The State Treasurer shall deposit and credit the moneys received under subsection (2) of this*
20 *section to the County Assessment Function Funding Assistance Account referred to in ORS 294.184.*]

21 [(4)] **(3)** If the county treasurer fails to pay over moneys, as required under subsection (2) of this
22 section, then any unpaid moneys shall be a debt due and owing by the county to the state and the
23 county shall pay the legal rate of interest thereon from the due date until paid. Payment of interest
24 under this section shall not relieve the county treasurer from any penalty imposed by law for failure
25 to make the payments, and in addition, the county treasurer shall be liable under ORS 311.375 (4)(a)
26 and (b).

27 [(5)] **(4)** ORS 294.305 to 294.565 do not apply to a fund created under this section.

28 **SECTION 4.** ORS 306.815 is amended to read:

29 306.815. (1) A city, county, district or other political subdivision or municipal corporation of this
30 state shall not impose, by ordinance or other law, a tax or fee upon the transfer of a fee estate in
31 real property, or measured by the consideration paid or received upon transfer of a fee estate in real
32 property.

33 (2) A tax or fee upon the transfer of a fee estate in real property does not include any fee or
34 charge that becomes due or payable at the time of transfer of a fee estate in real property, unless
35 that fee or charge is imposed upon the right, privilege or act of transferring title to real property.

36 (3) Subsection (1) of this section does not apply to any fee established under ORS 203.148.

37 (4) Subsection (1) of this section does not apply to any tax if the ordinance or other law im-
38 posing the tax is in effect and operative on March 31, 1997.

39 (5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the
40 transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the re-
41 cording or filing of the instrument conveying the real property being transferred, is less than [*\$11*]
42 **\$27.**

43 **SECTION 5.** ORS 458.610 is amended to read:

44 458.610. For purposes of ORS 458.600 to 458.655:

45 (1) "Council" means the State Housing Council established in ORS 456.567.

1 (2) "Department" means the Housing and Community Services Department established in ORS
2 456.555.

3 (3) "Disabled" means those persons described as such by the Fair Housing Amendments Act of
4 1988.

5 (4) "Low income" means individuals or households that receive more than 50 percent but less
6 than 80 percent of the area median income as determined by the council based on information from
7 the United States Department of Housing and Urban Development.

8 (5) "Minority" means an individual who is:

9 (a) **An individual who has origins in one of the black racial groups of Africa but who is**
10 **not Hispanic;**

11 (b) **An individual of Hispanic culture or origin;**

12 (c) **An individual having origins in any of the original peoples of the Far East, Southeast**
13 **Asia, the Indian subcontinent or the Pacific Islands; or**

14 (d) **An American Indian or Alaskan Native having origins in one of the original peoples**
15 **of North America.**

16 [(5)] (6) "Organization" means a:

17 (a) Nonprofit corporation established under ORS chapter 65;

18 (b) Housing authority established under ORS 456.055 to 456.235; or

19 (c) Local government as defined in ORS 197.015.

20 [(6)] (7) "Very low income" means individuals or households which receive less than 50 percent
21 of the area median income as determined by the council based on information from the United States
22 Department of Housing and Urban Development.

23 **SECTION 6.** ORS 456.720 is amended to read:

24 456.720. (1) The Housing Finance Fund is established, separate and distinct from the General
25 Fund. The fund shall consist of the proceeds from the sale of bonds issued under ORS 456.645 and
26 456.650, fees and other moneys received by the Housing and Community Services Department under
27 ORS 456.550 to 456.725, moneys appropriated by the state for use by the department in carrying out
28 ORS 456.550 to 456.725 and moneys made available from any other source for use by the department
29 under ORS 456.550 to 456.725.

30 (2) Except as otherwise provided in this section, moneys in the fund may be expended by the
31 department for the purposes authorized in ORS 456.550 to 456.725. Except as otherwise provided in
32 this section for a capital reserve account, the department may establish one or more accounts within
33 the fund for use in carrying out ORS 456.550 to 456.725.

34 (3) There may be established within the Housing Finance Fund capital reserve accounts. A
35 capital reserve account shall consist of the aggregate of moneys retained by the department, pur-
36 suant to existing agreements with the bondholders, as the annual debt service reserve, as described
37 in ORS 456.655 (1), for each bond issue sold by the department under ORS 456.645 or 456.650. All
38 moneys in the account for an issue which the department has determined a debt service reserve is
39 required shall be used solely for the payment of the principal and interest on the bonds as they
40 mature, the purchase of such bonds, the payment of interest on such bonds and the payment of any
41 redemption premium required to be paid by the department when any such bonds are redeemed prior
42 to maturity. Moneys in the account may not be withdrawn therefrom at any time in such amount
43 as would reduce the amount of moneys in the account below the maximum amount of principal and
44 interest maturing and becoming due in the succeeding fiscal year on all such bonds then outstand-
45 ing, except for the purpose of paying principal of and interest and premium, if any, on the bonds of

1 the department maturing and becoming due and for the payment of which other moneys in the
2 Housing Finance Fund are not available.

3 (4) Except as otherwise provided in existing agreements with bondholders, any income or inter-
4 est earned by or accruing to the capital reserve account because of the investment by the depart-
5 ment of moneys within the account may be retained by the department in the fund to apply to any
6 future deficiency that may occur or may be used by the department for the repayment of moneys in
7 the revolving account that were expended by the department pursuant to ORS 456.574 (2)(b).

8 (5) In order to assure the continual operation and maintenance of the capital reserve account
9 in the Housing Finance Fund and to carry out ORS 456.550 to 456.725, if the amount of money on
10 deposit in the capital reserve account in any year is less than the debt service reserves described
11 in ORS 456.655 (1), the Director of the Housing and Community Services Department shall certify
12 to the Governor and the Legislative Assembly or, during the interim, to the Emergency Board the
13 amount needed to restore the account to its required debt service reserves. The amount so certified
14 by the director may be appropriated by the Legislative Assembly or, during the interim, allocated
15 by the Emergency Board and paid to the department during the then current fiscal year for deposit
16 in the capital reserve account.

17 (6) For the purposes of this section, the department shall annually value investments in the
18 capital reserve account at the amortized cost of the investments.

19 (7) There is established within the Housing Finance Fund a Housing Development Account.
20 Moneys in this account are [*hereby*] continuously appropriated to carry out the purposes of ORS
21 456.515 to 456.725 by contract, grant, loan or as otherwise determined necessary by the department.

22 **The department shall adopt rules that:**

23 **(a) Govern the allocation of moneys deposited in the account to best meet critical hous-**
24 **ing needs and build organizational capacity of partners across the state; and**

25 **(b) Require equitable distribution of resources over time based on objective measures of**
26 **need, including the number and percentage of low and very low income households.**

27 (8)(a) The Housing Development Account shall consist of moneys deposited or received by the
28 department for the purposes of this account from whatever source. Of the moneys deposited into the
29 account:

30 (A) The department shall not use moneys from its own resources for administrative expenses;
31 and

32 (B) The department may use moneys from other sources for administrative expenses only to the
33 extent provided by those sources.

34 (b) The department may return moneys received or deposited in the account to the original
35 source of the moneys, as the director determines necessary.

36 (9) Except as otherwise stipulated by the source of funds, any income or interest earned by or
37 accruing to the Housing Development Account because of the investment by the department of
38 moneys in the account may be retained by the department for the uses of the account.

39 (10) The department may enter into agreements regarding use of moneys received for the
40 Housing Development Account with the source of the moneys, and may comply with the provisions
41 of such agreements.

42 **SECTION 7.** ORS 458.655 is amended to read:

43 458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and
44 Community Services Department to expand the state's supply of homeownership housing for low and
45 very low income families and individuals, including, but not limited to, housing for persons over 65

1 years of age, disabled persons, **racial and ethnic minority households**, farmworkers and Native
 2 Americans. The State Housing Council shall have a policy of distributing funds statewide while
 3 concentrating funds in those areas of the state with the greatest need, as determined by the council,
 4 for low and very low income homeownership housing. However, the council's policy of distributing
 5 funds may differ from the distribution policy for the Housing Development and Guarantee Account.

6 (2) Funds in the Home Ownership Assistance Account shall be granted to organizations[, *as de-*
 7 *defined in ORS 458.610 (5),*] that both sponsor and manage low income homeownership programs, in-
 8 cluding lease-to-own programs, for the construction of new homeownership housing or for the
 9 acquisition or rehabilitation of existing structures for homeownership housing for persons of low or
 10 very low income, or both.

11 (3) The council shall develop a policy for disbursing grants for any or all of the following pur-
 12 poses:

13 (a) To aid low income homeownership programs, including program administration, in purchas-
 14 ing land, providing assistance with down payment costs, or providing homeownership training and
 15 qualification services or any combination thereof. [*No*] **Funds in the Home Ownership Assistance**
 16 **Account** [*funds shall be*] **may not be** used by an organization **to pay** for its general operations or
 17 [*for a substantial portion*] **to pay for more than 25 percent** of construction or rehabilitation costs;

18 (b) To match public and private moneys available from other sources for purposes of the pro-
 19 vision of low or very low income homeownership housing; or

20 (c) To administer the Home Ownership Assistance Account, not to exceed five percent of the
 21 revenue.

22 (4) The council, in developing policy under subsection (3) of this section, shall give preference
 23 in making grants to those entities that propose to:

24 (a) Provide the greatest number of low and very low income homeownership housing units con-
 25 structed, acquired or rehabilitated for the amount of account money expended by matching account
 26 funds with other grant, loan or eligible in-kind contributions;

27 (b) Ensure the longest use for the units as low or very low income homeownership housing units,
 28 such as by including some form of equity recapture, **land trust or shared equity provisions**, as
 29 determined by the council; [*and*]

30 (c) Include social services for occupants and proposed occupants of the proposed housing, in-
 31 cluding but not limited to, programs that address home health care, mental health care, alcohol and
 32 drug treatment and post-treatment care, child care, homeownership training, mortgage qualification
 33 service, credit repair and case management; **and**

34 (d) **Support a comprehensive strategy to reverse the decreasing rates of homeownership**
 35 **among racial and ethnic minority households, giving priority to activities that support com-**
 36 **prehensive community plans that incorporate recognized best practices or demonstrate**
 37 **proven success in increasing homeownership for racial and ethnic minorities.**

38 **SECTION 8.** Notwithstanding any other law limiting expenditures, the limitation on
 39 expenditures established by section 2, chapter _____, Oregon Laws 2007 (Enrolled Senate
 40 Bill 5517), for the biennium beginning July 1, 2007, as the maximum limit for payment of ex-
 41 penses from fees, moneys or other revenues, including Miscellaneous Receipts and federal
 42 funds from the United States Department of Housing and Urban Development for contract
 43 services, but excluding lottery funds and other federal funds, collected or received by the
 44 Housing and Community Services Department, is increased by \$31,876,537.

45 **SECTION 9.** This 2007 Act takes effect on the 91st day after the date on which the reg-

1 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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