

A-Engrossed
Senate Bill 984

Ordered by the Senate April 16
Including Senate Amendments dated April 16

Sponsored by Senator AVAKIAN; Representatives D EDWARDS, SCHAUFLEER

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.

Adds loans made to finance construction, development or acquisition of manufactured dwelling parks to loans eligible for affordable housing tax credit. Adds loans made to finance acquisition of affordable housing to loans eligible for affordable housing tax credit. **Adds loans made to finance acquisition, or acquisition and rehabilitation, of housing consisting of preservation project to loans eligible for affordable housing tax credit. Defines "preservation project."** Increases monetary cap on allowable tax credit certifications. Applies to tax credit certifications issued on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits for affordable housing; creating new provisions; amending ORS 317.097; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 317.097 is amended to read:

6 317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
7 be allowed to a lending institution in an amount equal to the difference between:

8 (a) The amount of finance charge charged by the lending institution during the taxable year at
9 an annual rate less than the market rate for a loan that is made before January 1, 2020, that com-
10 plies with the requirements of this section; and

11 (b) The amount of finance charge that would have been charged during the taxable year by the
12 lending institution for the loan for housing construction, development, **acquisition** or rehabilitation
13 measured at the annual rate charged by the lending institution for nonsubsidized loans made under
14 like terms and conditions at the time the loan for housing construction, development, **acquisition**
15 or rehabilitation is made.

16 (2) The maximum amount of credit for the difference between the amounts described in sub-
17 section (1)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
18 the loan during the tax year for which the credit is claimed.

19 (3) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
20 particular year may be carried forward and offset against the taxpayer's tax liability for the next
21 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
22 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
23 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
24 credit not used in that third succeeding tax year may be carried forward and used in the fourth
25 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried

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 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
2 thereafter.

3 (4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
4 shall be:

5 (a) Made to an individual or individuals who own the dwelling, participate in an owner-occupied
6 community rehabilitation program and are certified by the local government or its designated agent
7 as having an income level at the time the loan is made of less than 80 percent of the area median
8 income; [or]

9 (b)(A) Made to a qualified borrower;

10 (B) Used to finance construction, **development, acquisition or** rehabilitation [or *development*]
11 of housing; and

12 (C) Accompanied by a written certification by the Housing and Community Services Department
13 that the:

14 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent
15 of the area median income; and

16 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
17 or will be passed on to the tenants in the form of reduced housing payments, regardless of other
18 subsidies provided to the housing project[.];

19 (c)(A) **Made to a qualified borrower;**

20 (B) **Used to finance construction, development, acquisition, or acquisition and rehabili-**
21 **tation of housing consisting of a manufactured dwelling park; and**

22 (C) **Accompanied by a written certification by the Housing and Community Services De-**
23 **partment that the housing will continue to be operated as a manufactured dwelling park**
24 **during the period for which the tax credit is allowed; or**

25 (d)(A) **Made to a qualified borrower;**

26 (B) **Used to finance acquisition, or acquisition and rehabilitation, of housing consisting**
27 **of a preservation project; and**

28 (C) **Accompanied by a written certification by the Housing and Community Services De-**
29 **partment that the housing preserved by the loan:**

30 (i) **Is or will be occupied by households earning less than 80 percent of the area median**
31 **income; and**

32 (ii) **Has a rent assistance contract with the United States Department of Housing and**
33 **Urban Development or the United States Department of Agriculture that will be maintained**
34 **by the qualified borrower.**

35 (5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this sec-
36 tion shall be treated the same as a loan that meets the criteria stated in subsection (4) of this sec-
37 tion.

38 (6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the loan
39 also shall be accompanied by a written certification by the Housing and Community Services De-
40 partment that:

41 (a) Specifies the period, as determined by the Housing and Community Services Department,
42 during which the loan is eligible for the tax credit under subsection (1) of this section; and

43 (b) States that the loan is within the limitation imposed by subsection (7) of this section.

44 (7)(a) The Housing and Community Services Department may certify loans that are eligible un-
45 der subsection (4) of this section if the total credits attributable to all loans eligible for credits un-

1 der subsection (1) of this section and then outstanding do not exceed [~~\$11~~] **\$13** million for any **fiscal**
 2 **year beginning before July 1, 2010, or \$15 million for any fiscal year beginning on or after July**
 3 **1, 2010**. In making loan certifications, the Housing and Community Services Department shall at-
 4 tempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas
 5 of the state that are determined by the State Housing Council to have the greatest need for afford-
 6 able housing.

7 (b) The certification under subsection (6) of this section shall state the period for which the
 8 credit will be allowed, which may not exceed 20 years.

9 (8) The applicant's receipt of a credit under section 42 of the Internal Revenue Code does not
 10 affect the credit allowed under this section.

11 (9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a
 12 qualified assignee with or without the lending institution's retaining servicing of the loan so long
 13 as a designated lending institution maintains records annually verified by a loan servicer that es-
 14 tablish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

15 (10) As used in this section:

16 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-
 17 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

18 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed
 19 by the lending institution, and other charges related to the cost of obtaining credit.

20 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,
 21 any mortgage banking company that maintains an office in this state or any community development
 22 corporation that is organized under the Oregon Nonprofit Corporation Law.

23 **(d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.**

24 **(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under**
 25 **section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December**
 26 **31, 2006.**

27 **(f) "Preservation project" means housing that was previously developed as affordable**
 28 **housing with a contract for rent assistance from the United States Department of Housing**
 29 **and Urban Development or the United States Department of Agriculture and that is being**
 30 **acquired by a sponsoring entity.**

31 [~~(d)~~] **(g)** "Qualified assignee" means any investor participating in the secondary market for real
 32 estate loans.

33 [~~(e)~~] **(h)** "Qualified borrower" means any borrower that is a sponsoring entity that has a con-
 34 trolling interest in the real property that is financed by the loan described in subsection (4) of this
 35 section. Such a controlling interest includes, but is not limited to, a controlling interest in the gen-
 36 eral partner of a limited partnership that owns the real property.

37 [~~(f)~~] **(i)** "Sponsoring entity" means a nonprofit corporation, **nonprofit cooperative**, state gov-
 38 ernmental entity, local unit of government as defined in ORS 466.706, housing authority or any other
 39 person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corpo-
 40 ration, **nonprofit cooperative**, state governmental entity, local unit of government or housing au-
 41 thority.

42 (11) Notwithstanding any other provision of law, a lending institution that is a community de-
 43 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer any
 44 part or all of any tax credit arising under subsection (1) of this section to one or more other lending
 45 institutions that are stockholders or members of the community development corporation or that

1 otherwise participate through the community development corporation in the making of one or more
2 loans that generate the tax credit under subsection (1) of this section.

3 (12) The lending institution shall file an annual statement with the Housing and Community
4 Services Department, specifying that it has conformed with all requirements imposed by law to
5 qualify for this tax credit.

6 (13) The Housing and Community Services Department and the Department of Revenue may
7 adopt rules to carry out the provisions of this section.

8 **SECTION 2. The amendments to ORS 317.097 by section 1 of this 2007 Act apply to tax**
9 **credit certifications issued on or after the effective date of this 2007 Act.**

10 **SECTION 3. This 2007 Act takes effect on the 91st day after the date on which the reg-**
11 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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