

**SENATE AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2255  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

May 28

1 On page 2 of the printed A-engrossed bill, line 25, delete “or”.

2 After line 25, insert:

3 “(b) That is perfected with the Department of Consumer and Business Services pursuant to ORS  
4 446.611; or”.

5 In line 26, delete “(b)” and insert “(c)”.

6 On page 7, after line 24, insert:

7 **“SECTION 8a. If House Bill 2261 becomes law, section 8 of this 2009 Act (amending ORS  
8 317.097) is repealed and ORS 317.097, as amended by section 6, chapter 29, Oregon Laws 2008,  
9 section 15, chapter 45, Oregon Laws 2008, section 25, chapter 5, Oregon Laws 2009 (Enrolled  
10 House Bill 2157), and section 1a, chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2261),  
11 is amended to read:**

12 “317.097. (1) As used in this section:

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

15 “(b) ‘Finance charge’ means the total of all interest, loan fees, interest on any loan fees financed  
16 by the lending institution, and other charges related to the cost of obtaining credit.

17 “(c) ‘Lending institution’ means any insured institution, as that term is defined in ORS 706.008,  
18 any mortgage banking company that maintains an office in this state or any community development  
19 corporation that is organized under the Oregon Nonprofit Corporation Law.

20 “(d) ‘Manufactured dwelling park’ has the meaning given that term in ORS 446.003.

21 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from income taxes under section  
22 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2008.

23 “(f) ‘Preservation project’ means housing that was previously developed as affordable housing  
24 with a contract for rent assistance from the United States Department of Housing and Urban De-  
25 velopment or the United States Department of Agriculture and that is being acquired by a spon-  
26 soring entity.

27 “(g) ‘Qualified assignee’ means any investor participating in the secondary market for real estate  
28 loans.

29 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity that has a controlling  
30 interest in the real property that is financed by a qualified loan. A controlling interest includes, but  
31 is not limited to, a controlling interest in the general partner of a limited partnership that owns the  
32 real property.

33 “(i) ‘Qualified loan’ means:

34 “(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to

1 refinance a loan that meets the criteria described in subsection (5) of this section; or

2 “(B) The purchase by a lending institution of bonds, as defined in ORS 286A.001, issued on behalf  
3 of the Housing and Community Services Department, the proceeds of which are used to finance or  
4 refinance a loan that meets the criteria described in subsection (5) of this section.

5 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooperative, state governmental  
6 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,  
7 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,  
8 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

9 “(2) The Department of Revenue shall allow a credit against taxes otherwise due under this  
10 chapter for the taxable year to a lending institution that makes a qualified loan certified by the  
11 Housing and Community Services Department as provided in subsection (7) of this section. The  
12 amount of the credit is equal to the difference between:

13 “(a) The amount of finance charge charged by the lending institution during the taxable year  
14 at an annual rate less than the market rate for a qualified loan that is made before January 1, 2020,  
15 that complies with the requirements of this section; and

16 “(b) The amount of finance charge that would have been charged during the taxable year by the  
17 lending institution for the qualified loan for housing construction, development, acquisition or re-  
18 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans  
19 made under like terms and conditions at the time the qualified loan for housing construction, de-  
20 velopment, acquisition or rehabilitation is made.

21 “(3) The maximum amount of credit for the difference between the amounts described in sub-  
22 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of  
23 the qualified loan during the tax year for which the credit is claimed.

24 “(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular  
25 year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding  
26 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and  
27 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding  
28 tax year may be carried forward and used in the third succeeding tax year, and any credit not used  
29 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,  
30 and any credit not used in that fourth succeeding tax year may be carried forward and used in the  
31 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

32 “(5) To be eligible for the tax credit allowable under this section, a lending institution must  
33 make a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of  
34 the Housing and Community Services Department, the proceeds of which are used to finance or re-  
35 finance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

36 “(a) An individual or individuals who own a dwelling, participate in an owner-occupied commu-  
37 nity rehabilitation program and are certified by the local government or its designated agent as  
38 having an income level when the loan is made of less than 80 percent of the area median income;

39 “(b) A qualified borrower who:

40 “(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
41 of housing; and

42 “(B) Provides a written certification executed by the Housing and Community Services Depart-  
43 ment that the:

44 “(i) Housing created by the loan is or will be occupied by households earning less than 80 per-  
45 cent of the area median income; and

1           “(ii) Full amount of savings from the reduced interest rate provided by the lending institution  
2 is or will be passed on to the tenants in the form of reduced housing payments, regardless of other  
3 subsidies provided to the housing project;

4           “(c) **Subject to subsection (14) of this section**, a qualified borrower who:

5           “(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation  
6 of housing consisting of a manufactured dwelling park; and

7           “(B) Provides a written certification executed by the Housing and Community Services Depart-  
8 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-  
9 riod for which the tax credit is allowed; or

10          “(d) A qualified borrower who:

11          “(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a  
12 preservation project; and

13          “(B) Provides a written certification executed by the Housing and Community Services Depart-  
14 ment that the housing preserved by the loan:

15          “(i) Is or will be occupied by households earning less than 80 percent of the area median income;  
16 and

17          “(ii) Is the subject of a rent assistance contract with the United States Department of Housing  
18 and Urban Development or the United States Department of Agriculture that will be maintained by  
19 the qualified borrower.

20          “(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this  
21 section must be treated the same as a loan that meets the criteria stated in subsection (5) of this  
22 section.

23          “(7) For a qualified loan to be eligible for the tax credit allowable under this section, the  
24 Housing and Community Services Department must execute a written certification for the qualified  
25 loan that:

26          “(a) Specifies the period, not to exceed 20 years, as determined by the Housing and Community  
27 Services Department, during which the tax credit is allowed for the qualified loan; and

28          “(b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-  
29 tion.

30          “(8) The Housing and Community Services Department may certify qualified loans that are eli-  
31 gible under subsection (5) of this section if the total credits attributable to all qualified loans eligible  
32 for credits under this section and then outstanding do not exceed \$17 million for any fiscal year. In  
33 making loan certifications under subsection (7) of this section, the Housing and Community Services  
34 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax  
35 credits in those areas of the state that are determined by the State Housing Council to have the  
36 greatest need for affordable housing.

37          “(9) The tax credit provided for in this section may be taken whether or not:

38          “(a) The financial institution is eligible to take a federal income tax credit under section 42 of  
39 the Internal Revenue Code with respect to the project financed by the qualified loan; or

40          “(b) The project receives financing from bonds, the interest on which is exempt from federal  
41 taxation under section 103 of the Internal Revenue Code.

42          “(10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the  
43 purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the  
44 Internal Revenue Code, the amount of finance charge that would have been charged under sub-  
45 section (2)(b) of this section is determined by reference to the finance charge that would have been

1 charged if the federally tax exempt bonds had been issued and the tax credit under this section did  
2 not apply.

3 “(11) A lending institution may sell a qualified loan for which a certification has been executed  
4 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan  
5 so long as a designated lending institution maintains records, annually verified by a loan servicer,  
6 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

7 “(12) Notwithstanding any other provision of law, a lending institution that is a community de-  
8 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or  
9 part of a tax credit allowed under this section to one or more other lending institutions that are  
10 stockholders or members of the community development corporation or that otherwise participate  
11 through the community development corporation in the making of one or more qualified loans for  
12 which the tax credit under this section is allowed.

13 “(13) The lending institution shall file an annual statement with the Housing and Community  
14 Services Department, specifying that it has conformed with all requirements imposed by law to  
15 qualify for a tax credit under this section.

16 “(14) **Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a**  
17 **loan to finance the construction, development, acquisition or rehabilitation of a manufac-**  
18 **tured dwelling park under subsection (5)(c) of this section must be a nonprofit corporation,**  
19 **manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of**  
20 **government as defined in ORS 466.706 or housing authority.**

21 “[~~(14)~~] (15) The Housing and Community Services Department and the Department of Revenue  
22 may adopt rules to carry out the provisions of this section.”

23 On page 8, after line 39, insert:

24 “**SECTION 10a.** If House Bill 2261 becomes law, section 10 of this 2009 Act is amended to read:

25 “**Sec. 10.** (1) Section 2 of this 2009 Act applies to notices, restrictive covenants, leases, memo-  
26 randa and other documents created before, on or after the effective date of this 2009 Act.

27 “(2) Section 3 of this 2009 Act applies to a lienholder whose written notice is received by a  
28 manufactured dwelling park nonprofit cooperative on or after the effective date of this 2009 Act.

29 “(3) The amendments to ORS 62.809 by section 5 of this 2009 Act apply to:

30 “(a) The sale or redemption of a membership issued before, on or after the effective date of this  
31 2009 Act, except to the extent of any vested contractual right to membership value increases ac-  
32 cruing before the effective date of this 2009 Act; and

33 “(b) A transfer of title to a manufactured dwelling located in the park of a cooperative occurring  
34 on or after the effective date of this 2009 Act.

35 “(4) The amendments to ORS 317.097 by section [8] **8a** of this 2009 Act apply to loans made on  
36 or after the effective date of this 2009 Act.”