

HOUSE AMENDMENTS TO HOUSE BILL 2430

By COMMITTEE ON BUSINESS AND LABOR

May 5

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages 2 and 3 and insert:

2 “**SECTION 1.** ORS 279C.810 is amended to read:

3 “279C.810. [(1)] As used in this section **and section 2 of this 2009 Act:**

4 “(1) ‘**Affordable housing**’ means housing that serves occupants whose incomes are not
5 greater than 60 percent of the state median income or the area median income or, if the
6 occupants are owners, whose incomes are not greater than 80 percent of the state median
7 income or the area median income.

8 “[(a)] (2) ‘Funds of a public agency’ does not include:

9 “[(A)] (a) Funds provided in the form of a government grant to a nonprofit organization, unless
10 the government grant is issued for the purpose of construction, reconstruction, major renovation or
11 painting;

12 “[(B)] (b) Building and development permit fees paid or waived by the public agency;

13 “[(C)] (c) Tax credits or tax abatements;

14 “[(D)] (d) Land that a public agency sells to a private entity at fair market value;

15 “[(E)] (e) The difference between:

16 “[(i)] (A) The value of land that a public agency sells to a private entity as determined at the
17 time of the sale after taking into account any plan, requirement, covenant, condition, restriction or
18 other limitation, exclusive of zoning or land use regulations, that the public agency imposes on the
19 development or use of the land; and

20 “[(ii)] (B) The fair market value of the land if the land is not subject to the limitations described
21 in [sub-subparagraph (i) of this subparagraph] **subparagraph (A) of this paragraph;**

22 “[(F)] (f) Staff resources of the public agency used to manage a project or to provide a principal
23 source of supervision, coordination or oversight of a project;

24 “[(G)] (g) Staff resources of the public agency used to design or inspect one or more components
25 of a project;

26 “[(H)] (h) Moneys derived from the sale of bonds that are loaned by a state agency to a private
27 entity, unless the moneys will be used for a public improvement;

28 “[(I)] (i) Value added to land as a consequence of a public agency’s site preparation, demolition
29 of real property or remediation or removal of environmental contamination, except for value added
30 in excess of the expenses the public agency incurred in the site preparation, demolition or remedi-
31 ation or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to
32 279C.870; or

33 “[(J)] (j) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289
34 or ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

35 “[(b)] (3) ‘Nonprofit organization’ means an organization or group of organizations described in

1 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)
2 of the Internal Revenue Code.

3 “(4)(a) **‘Podium’ means a structural frame or portion of a structural frame that is con-**
4 **structed with metal, concrete or reinforced masonry and that serves as the ground floor of**
5 **and a base or support for the other floors of a building.**

6 “(b) **‘Podium’ does not include a concrete pad or foundation.**

7 “(5) **‘Predominantly’ means 60 percent or more.**

8 “(6)(a) **‘Site work’ means amenities or structures located near a building that are nec-**
9 **essary to make the building accessible or habitable, such as utilities, streets, sidewalks,**
10 **parking structures, underground parking or parking garages and similar amenities or**
11 **structures.**

12 “(b) **‘Site work’ does not include landscaping or surface parking areas.**

13 “(7) **‘Structural frame’ means the columns and bracing members of a building that are**
14 **designed to carry gravity loads, and the girders, beams, trusses and spandrels that have a**
15 **direct connection to the columns.**

16 “[2) *ORS 279C.800 to 279C.870 do not apply to:*]

17 “[*(a) Projects for which the contract price does not exceed \$50,000. In determining the price of a*
18 *project, a public agency:*]

19 “[*(A) May not include the value of donated materials or work performed on the project by indi-*
20 *viduals volunteering to the public agency without pay; and]*

21 “[*(B) Shall include the value of work performed by every person paid by a contractor or subcon-*
22 *tractor in any manner for the person’s work on the project.]*

23 “[*(b) Projects for which no funds of a public agency are directly or indirectly used. In accordance*
24 *with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries shall adopt rules to*
25 *carry out the provisions of this paragraph.]*

26 “[*(c) Projects:*]

27 “[*(A) That are privately owned;*]

28 “[*(B) That use funds of a private entity;*]

29 “[*(C) In which less than 25 percent of the square footage of a completed project will be occupied*
30 *or used by a public agency; and]*

31 “[*(D) For which less than \$750,000 of funds of a public agency are used.]*

32 “[*(d) Projects for residential construction that are privately owned and that predominantly provide*
33 *affordable housing. As used in this paragraph:]*

34 “[*(A) ‘Affordable housing’ means housing that serves occupants whose incomes are no greater than*
35 *60 percent of the area median income or, if the occupants are owners, whose incomes are no greater*
36 *than 80 percent of the area median income.]*

37 “[*(B) ‘Predominantly’ means 60 percent or more.]*

38 “[*(C) ‘Privately owned’ includes:]*

39 “[*(i) Affordable housing provided on real property owned by a public agency if the real property*
40 *and related structures are leased to a private entity for 50 or more years; and]*

41 “[*(ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-*
42 *pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or man-*
43 *aging member and the housing authority is not a majority owner in the partnership, nonprofit*
44 *corporation or limited liability company.]*

45 “[*(D) ‘Residential construction’ includes the construction, reconstruction, major renovation or*

1 painting of single-family houses or apartment buildings not more than four stories in height and all
2 incidental items, such as site work, parking areas, utilities, streets and sidewalks, pursuant to the
3 United States Department of Labor's 'All Agency Memorandum No. 130: Application of the Standard
4 of Comparison 'Projects of a Character Similar' Under Davis-Bacon and Related Acts,' dated March
5 17, 1978. However, the commissioner may consider different definitions of residential construction in
6 determining whether a project is a residential construction project for purposes of this paragraph, in-
7 cluding definitions that:]

8 [(i) Exist in local ordinances or codes; or]

9 [(ii) Differ, in the prevailing practice of a particular trade or occupation, from the United States
10 Department of Labor's description of residential construction.]

11 **"SECTION 2. (1) Except as provided in subsections (2) and (3) of this section, ORS**
12 **279C.800 to 279C.870 do not apply to:**

13 **"(a) A project for which the contract price does not exceed \$50,000. In determining the**
14 **contract price for a project, a public agency:**

15 **"(A) May not include the value of donated materials or work performed on the project**
16 **by individuals volunteering to the public agency without pay; and**

17 **"(B) Shall include the value of work performed by every person that a contractor or**
18 **subcontractor paid in any manner for the person's work on the project.**

19 **"(b) A project for which no funds of a public agency are used, directly or indirectly. In**
20 **accordance with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries**
21 **shall adopt rules to carry out the provisions of this paragraph.**

22 **"(c) A project:**

23 **"(A) That is privately owned;**

24 **"(B) That uses funds of a private entity;**

25 **"(C) In which less than 25 percent of the square footage of the completed project will be**
26 **occupied or used by a public agency; and**

27 **"(D) For which less than \$750,000 of funds of a public agency are used.**

28 **"(d)(A) A project that:**

29 **"(i) Is privately owned;**

30 **"(ii) Is a building that consists of not more than four floors; and**

31 **"(iii) Predominantly provides affordable housing.**

32 **"(B) As used in this paragraph, 'privately owned' includes:**

33 **"(i) Affordable housing provided on real property owned by a public agency if the real**
34 **property and related structures are leased to a private entity for 50 or more years; and**

35 **"(ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability**
36 **company in which a housing authority, as defined in ORS 456.005, is a general partner, di-**
37 **rector or managing member and the housing authority is not a majority owner in the part-**
38 **nership, nonprofit corporation or limited liability company.**

39 **"(2)(a) ORS 279C.800 to 279C.870 apply to a project described in subsection (1)(d) of this**
40 **section as provided in paragraph (b) of this subsection if, in addition to affordable housing,**
41 **the project provides space for commercial use.**

42 **"(b) With respect to a project described in paragraph (a) of this subsection:**

43 **"(A) ORS 279C.800 to 279C.870 apply to the construction of:**

44 **"(i) The podium, in a project in which part of the structural frame consists of a podium.**

45 **"(ii) The portion of the project that consists of space for commercial use, if the area**

1 available for commercial use in the project is 20 percent or more of the entire square footage
2 of the project.

3 “(iii) Site work for the project.

4 “(B) ORS 279C.800 to 279C.870 do not apply to the construction of:

5 “(i) The portions of the project that are above the podium, in a project in which part of
6 the structural frame consists of a podium.

7 “(ii) The entire project, if the area available for commercial use in the project is less than
8 20 percent of the entire square footage of the project.

9 “(3) ORS 279C.800 to 279C.870 apply to electrical work on the portions of a project de-
10 scribed in subsection (1)(d) of this section that are equivalent to the types of building or
11 dwelling unit described in ORS 479.630 (14) on which a person who has a limited residential
12 electrician’s license may perform electrical work.

13 “(4) The commissioner by rule shall adopt a definition of ‘floor’ for use in applying the
14 provisions of this section that is consistent with the definition or description of ‘floor’ that
15 the United States Department of Labor uses in applying the provisions of the Davis-Bacon
16 Act (40 U.S.C. 3141 et seq.) to determinations of construction types.

17 “SECTION 3. Section 2 of this 2009 Act and the amendments to ORS 279C.810 by section
18 1 of this 2009 Act apply to contracts first advertised or otherwise solicited or, if not adver-
19 tised or solicited, first entered into on or after the effective date of this 2009 Act.

20 “SECTION 4. This 2009 Act being necessary for the immediate preservation of the public
21 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
22 on its passage.”.

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