

House Bill 4166

Sponsored by Representative JOHNSON; Representatives BOONE, ESQUIVEL, GILLIAM, KENNEMER, SCHAUFLEER, Senator OLSEN (Pre-session filed.)

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 **as introduced**.

Allows State Department of Energy to require applicants seeking tax credit certification to demonstrate whether efficiency standards of energy conservation projects are eligible for certification under certain forest product stewardship systems.

Applies to applications for preliminary certification for energy conservation tax credits filed after January 1, 2013.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use of forest products in energy conservation projects; creating new provisions; amend-
3 ing ORS 315.331; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.331 is amended to read:

6 315.331. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the
7 taxpayer is a corporation, under ORS chapter 317 or 318, for an energy conservation project that
8 is certified under ORS 469B.270 to 469B.306. The credit is allowed as follows:

9 (a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first
10 two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility,
11 but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding
12 three years shall be five percent of the certified cost, but may not exceed the tax liability of the
13 taxpayer.

14 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit
15 allowable under subsection [(3)] (4) of this section may be claimed in the first tax year for which
16 the credit may be claimed, but may not exceed the tax liability of the taxpayer.

17 (2) In order for a tax credit to be allowable under this section:

18 (a) The project must be located in Oregon.

19 (b) The project must have received final certification from the Director of the State Department
20 of Energy under ORS 469B.270 to 469B.306.

21 (c) If the project is a research and development project, it must receive, prior to certification
22 under ORS 469B.288, a recommendation from a qualified third party selected by the director.

23 (d) If the project is new construction or a total building retrofit, then the project must achieve,
24 at a minimum, the energy efficiency standards required for:

25 (A) LEED Platinum certification;

26 (B) A four globes rating from the Green Globes program;

27 (C) A nationally or regionally recognized and appropriate sustainable building program whose
28 performance standards are equivalent to the standards required for LEED Platinum certification 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 a four globes rating from the Green Globes program, as determined by the department; or

2 (D) Verification that the construction conformed to the standards of the Reach Code adopted
3 pursuant to ORS 455.500.

4 **(3) The State Department of Energy may require applicants to demonstrate whether the**
5 **efficiency standards chosen by the applicant are eligible under the certifications given to**
6 **forest products grown, manufactured and certified under the Sustainable Forestry Initiative,**
7 **the Forest Stewardship Council and the American Tree Farm System systems.**

8 [(3)] (4) The total amount of credit allowable to an eligible taxpayer under this section may not
9 exceed 35 percent of the certified cost of the project.

10 [(4)(a)] (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition
11 of the project, notice thereof shall be given to the director, who shall revoke the certificate covering
12 the project as of the date of such disposition.

13 (b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new certificate
14 under ORS 469B.291. The new lessee or owner must meet the requirements of ORS 469B.270 to
15 469B.306 and may claim a tax credit under this section only if all moneys owed by the new owner
16 or lessee to the State of Oregon have been paid, if the project continues to operate and if all con-
17 ditions in the final certification are met. The tax credit available to the new owner shall be limited
18 to the amount of credit not claimed by the former owner or, for a new lessee, the amount of credit
19 not claimed by the lessee under all previous leases. The State Department of Energy may waive the
20 requirement that a new owner or lessee apply for a new certificate under ORS 469B.291 if the re-
21 maining credit is less than \$20,000.

22 (c) The department may not revoke the certificate covering a project under paragraph (a) of this
23 subsection if the tax credit associated with the project has been transferred to a taxpayer who is
24 an eligible applicant under ORS 469B.285.

25 [(5)] (6) The tax credit allowed under this section for any one tax year may not exceed the tax
26 liability of the taxpayer.

27 [(6)] (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer
28 in a particular year may be carried forward and offset against the taxpayer's tax liability for the
29 next succeeding tax year. Any credit remaining unused in that next succeeding tax year may be
30 carried forward and used in the second succeeding tax year, and likewise, any credit not used in
31 that second succeeding tax year may be carried forward and used in the third succeeding tax year,
32 and likewise, any credit not used in that third succeeding tax year may be carried forward and used
33 in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax
34 year may be carried forward and used in the fifth succeeding tax year, but may not be carried for-
35 ward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond
36 the years specified in subsection (1) of this section only as provided in this subsection.

37 [(7)] (8) The credit allowed under this section is not in lieu of any depreciation or amortization
38 deduction for the project to which the taxpayer otherwise may be entitled for purposes of ORS
39 chapter 316, 317 or 318 for such year.

40 [(8)] (9) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any
41 tax credits allowed under this section.

42 [(9)] (10) The definitions in ORS 469B.270 apply to this section.

43 **SECTION 2. The amendments to ORS 315.331 by section 1 of this 2012 Act apply to ap-**
44 **plications for preliminary certification under ORS 469B.285 filed after January 1, 2013.**

45 **SECTION 3. This 2012 Act takes effect on the 91st day after the date on which the 2012**

1 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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