

# D R A F T

## SUMMARY

Clarifies state agency reference.

### A BILL FOR AN ACT

Relating to energy conservation project certification; amending ORS 315.331.

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

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

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

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

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

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

(a) The project must be located in Oregon.

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

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

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

7 (A) LEED Platinum certification;

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

9 (C) A nationally or regionally recognized and appropriate sustainable  
10 building program whose performance standards are equivalent to the stan-  
11 dards required for LEED Platinum certification or a four globes rating from  
12 the Green Globes program, as determined by the **State Department of En-**  
13 **ergy**; or

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

16 (3) The total amount of credit allowable to an eligible taxpayer under this  
17 section may not exceed 35 percent of the certified cost of the project.

18 (4)(a) Upon any sale, termination of the lease or contract, exchange or  
19 other disposition of the project, notice thereof shall be given to the director,  
20 who shall revoke the certificate covering the project as of the date of such  
21 disposition.

22 (b) A new owner, or, upon re-leasing of the project, a new lessee, may  
23 apply for a new certificate under ORS 469B.291. The new lessee or owner  
24 must meet the requirements of ORS 469B.270 to 469B.306 and may claim a  
25 tax credit under this section only if all moneys owed by the new owner or  
26 lessee to the State of Oregon have been paid, if the project continues to op-  
27 erate and if all conditions in the final certification are met. The tax credit  
28 available to the new owner shall be limited to the amount of credit not  
29 claimed by the former owner or, for a new lessee, the amount of credit not  
30 claimed by the lessee under all previous leases. The State Department of  
31 Energy may waive the requirement that a new owner or lessee apply for a

1 new certificate under ORS 469B.291 if the remaining credit is less than  
2 \$20,000.

3 (c) The department may not revoke the certificate covering a project un-  
4 der paragraph (a) of this subsection if the tax credit associated with the  
5 project has been transferred to a taxpayer who is an eligible applicant under  
6 ORS 469B.285.

7 (5) The tax credit allowed under this section for any one tax year may  
8 not exceed the tax liability of the taxpayer.

9 (6) Any tax credit otherwise allowable under this section that is not used  
10 by the taxpayer in a particular year may be carried forward and offset  
11 against the taxpayer's tax liability for the next succeeding tax year. Any  
12 credit remaining unused in that next succeeding tax year may be carried  
13 forward and used in the second succeeding tax year, and likewise, any credit  
14 not used in that second succeeding tax year may be carried forward and used  
15 in the third succeeding tax year, and likewise, any credit not used in that  
16 third succeeding tax year may be carried forward and used in the fourth  
17 succeeding tax year, and likewise, any credit not used in that fourth suc-  
18 ceeding tax year may be carried forward and used in the fifth succeeding tax  
19 year, but may not be carried forward for any tax year thereafter. Credits  
20 may be carried forward to and used in a tax year beyond the years specified  
21 in subsection (1) of this section only as provided in this subsection.

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

25 (8) The taxpayer's adjusted basis for determining gain or loss may not be  
26 decreased by any tax credits allowed under this section.

27 (9) The definitions in ORS 469B.270 apply to this section.

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