

**C-Engrossed**  
**House Bill 2763**

Ordered by the Senate June 26  
Including House Amendments dated April 8 and Senate Amendments  
dated June 3 and June 26

Sponsored by COMMITTEE ON TRANSPORTATION AND ECONOMIC DEVELOPMENT

**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.

*[For purposes of]* **Allows taxpayer to carry over** tax credit allowed for qualified equity investment, *allows taxpayer to claim less than full amount of credit* **up to fifth succeeding tax year.** Increases maximum amount of qualified low-income community investments that may be made with proceeds of qualified equity investments that are certified for tax credit. Provides that reduction in corporate excise tax through application of credit allowed for qualified equity investment is not considered in calculation of retaliatory tax imposed against insurer. Establishes timeframe during which qualified equity investment may be issued.

Applies to **qualified equity** investments made on or after July 1, 2012, to **qualified low-income community investments made on or after January 1, 2014**, and to tax years beginning on or after January 1, 2013.

**Requires Oregon Business Development Department to annually report to Oregon Department of Administrative Services costs and fees for administering tax credit, and other specified information. Requires that report be posted to Oregon transparency website.**

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to economic development; creating new provisions; amending ORS 285C.650, 315.533 and  
3 731.854; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.533 is amended to read:

6 315.533. (1) As used in this section, "applicable percentage" means zero percent for each of the  
7 first two credit allowance dates, seven percent for the third credit allowance date and eight percent  
8 for the next four credit allowance dates.

9 (2) A person that makes a qualified equity investment shall, at the time of investment, earn a  
10 vested credit against the taxes otherwise due under ORS chapter 316 or, if the person is a corpo-  
11 ration, under ORS chapter 317 or 318.

12 (3)(a) The total amount of the tax credit available to a taxpayer under this section shall equal  
13 39 percent of the purchase price of the qualified equity investment.

14 (b) The taxpayer that holds a qualified equity investment on a particular credit allowance date  
15 of the qualified equity investment may claim a portion of the tax credit against its tax liability for  
16 the tax year that includes the credit allowance date equal to the applicable percentage for that  
17 credit allowance date multiplied by the purchase price of the qualified equity investment.

18 (4) The credit allowed under this section may not exceed the tax liability of the taxpayer for the  
19 tax year in which the credit is claimed.

20 *[(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a*

**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 particular tax year may be carried forward and offset against the taxpayer's tax liability in any suc-  
2 ceeding tax year.]

3 **(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer**  
4 **in a particular tax year may be carried forward and offset against the taxpayer's tax liability**  
5 **for the next succeeding tax year. Any credit remaining unused in the next succeeding tax**  
6 **year may be carried forward and used in the second succeeding tax year. Any credit re-**  
7 **maining unused in the second succeeding tax year may be carried forward and used in the**  
8 **third succeeding tax year. Any credit remaining unused in the third succeeding tax year may**  
9 **be carried forward and used in the fourth succeeding tax year. Any credit remaining unused**  
10 **in the fourth succeeding tax year may be carried forward and used in the fifth succeeding**  
11 **tax year, but may not be used in any tax year thereafter.**

12 (6) The following conditions must exist for a taxpayer to be eligible for the credit allowed under  
13 this section:

14 (a) A qualified community development entity that issues a debt instrument may not make cash  
15 interest payments on the debt instrument during the period commencing with its issuance and end-  
16 ing on its final credit allowance date in excess of the sum of the cash interest payments and the  
17 cumulative operating income, as defined in the regulations promulgated under section 45D of the  
18 Internal Revenue Code, of the qualified community development entity for the same period. Neither  
19 this paragraph nor the definition of "long-term debt security" provided in ORS 315.529 in any way  
20 limits the holder's ability to accelerate payments on the debt instrument in situations where the  
21 qualified community development entity has defaulted on covenants designed to ensure compliance  
22 with this section or section 45D of the Internal Revenue Code.

23 (b) A business shall be considered a qualified active low-income community business for the  
24 duration of a qualified community development entity's investment in or loan to the business, if it  
25 is reasonable to expect that at the time of the qualified community development entity's investment  
26 in or loan to a qualified active low-income community business, the business will continue to satisfy  
27 the requirements for being a qualified active low-income community business throughout the entire  
28 period of the investment or loan.

29 (c) A qualified equity investment must be designated by the issuer as a qualified equity invest-  
30 ment and be certified by the Oregon Business Development Department as not exceeding the limi-  
31 tation in ORS 285C.653. The qualified community development entity must keep sufficiently detailed  
32 books and records with respect to the investments made with the proceeds of the qualified equity  
33 investments to allow the direct tracing of proceeds into qualified low-income community investments  
34 in qualified active low-income community businesses in this state.

35 (d) The qualified community development entity shall report annually to the department:

36 (A) The number of employment positions created and retained as a result of qualified low-income  
37 community investments by the qualified community development entity;

38 (B) The average annual salary of positions described in subparagraph (A) of this paragraph; and

39 (C) The number of positions described in subparagraph (A) of this paragraph that provide health  
40 benefits.

41 (e) The maximum amount of qualified low-income community investments that may be made in  
42 a qualified active low-income community business and all of its affiliates, with the proceeds of  
43 qualified equity investments that have been certified under ORS 285C.650, shall be [*\$4 million*] **\$8**  
44 **million**, whether made by one or several qualified community development entities.

45 (f) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph

1 precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a  
2 tax credit relating to that qualified equity investment for each applicable credit allowance date.

3 (7) A taxpayer claiming a credit under this section may not claim any other credit under this  
4 chapter or ORS chapter 285C during the same tax year based on activities related to the same  
5 qualified active low-income community business.

6 **SECTION 1a. The amendments to ORS 315.533 by section 1 of this 2013 Act apply to**  
7 **qualified low-income community investments made on or after January 1, 2014.**

8 **SECTION 2.** ORS 285C.650 is amended to read:

9 285C.650. (1) A qualified community development entity that seeks to have an equity investment  
10 or long-term debt security certified as a qualified equity investment and eligible for a tax credit  
11 under ORS 315.533 shall apply to the Oregon Business Development Department. The department  
12 shall establish by rule application procedures for applications for certification. The entity must  
13 submit an application on a form that the department provides that includes:

14 (a) The entity's name, address, tax identification number and evidence of the entity's certif-  
15 ication as a qualified community development entity.

16 (b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the  
17 Community Development Financial Institutions Fund that includes the State of Oregon in its service  
18 area.

19 (c) A certificate executed by an executive officer of the entity attesting that the allocation  
20 agreement remains in effect and has not been revoked or canceled by the Community Development  
21 Financial Institutions Fund.

22 (d) A description of the proposed purchase price, structure and purchaser of the equity invest-  
23 ment or long-term debt security.

24 (e) The name and tax identification number of any person eligible to claim a tax credit, under  
25 ORS 315.533, allowed as a result of the certification of the qualified equity investment.

26 (f) Information regarding the proposed use of proceeds from the issuance of the qualified equity  
27 investment.

28 (g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall  
29 be required for each application submitted.

30 (2) Within 15 days after receipt of a completed application containing the information necessary  
31 for the department to certify a proposed equity investment, including the payment of the application  
32 fee, the department shall grant or deny the application in full or in part. If the department denies  
33 any part of the application, the department shall inform the qualified community development entity  
34 of the grounds for the denial. If the qualified community development entity provides any additional  
35 information required by the department or otherwise completes its application within 15 days after  
36 the notice of denial, the application shall be considered completed as of the original date of sub-  
37 mission. If the qualified community development entity fails to provide the information or complete  
38 its application within the 15-day period, the application remains denied and must be resubmitted in  
39 full with a new submission date.

40 (3) If the application is deemed complete, the department shall certify the proposed equity in-  
41 vestment or long-term debt security as a qualified equity investment and eligible for a tax credit  
42 under ORS 315.533, subject to the limitations in ORS 315.536. The department shall provide written  
43 notice of the certification to the qualified community development entity. The notice shall include  
44 the names of those taxpayers who are eligible to utilize the credits and their respective credit  
45 amounts. If the names of the persons or entities that are eligible to utilize the credits change due

1 to a transfer of a qualified equity investment or a change in an allocation pursuant to ORS 315.536,  
2 the qualified community development entity shall notify the department of the change.

3 (4)(a) **Except as provided in paragraph (b) of this subsection**, within 60 days after receiving  
4 notice of certification, *[the]* a qualified community development entity shall issue the qualified equity  
5 investment and receive cash in the amount of the certified purchase price. The qualified community  
6 development entity must provide the department with evidence of the receipt of the cash investment  
7 within 10 business days after receipt.

8 (b) **For a qualified equity investment described in ORS 285C.653 (2), a qualified community**  
9 **development entity shall issue the qualified equity investment during the period beginning**  
10 **July 1, 2012, and ending 60 days after receiving notice of certification. If the qualified equity**  
11 **investment is issued prior to the submission of an application for certification under this**  
12 **section, the qualified community development entity must provide the department with evi-**  
13 **dence of the qualified equity investment and of receipt of the cash investment at the time**  
14 **of application for certification.**

15 (c) If *[the]* a qualified community development entity does not receive the cash investment and  
16 issue the qualified equity investment *[within 60 days]* **on or before the 60th day** following receipt  
17 of the certification notice, the certification shall lapse and the entity may not issue the qualified  
18 equity investment without reapplying to the department for certification. A certification that lapses  
19 reverts to the department and may be reissued only in accordance with the application process  
20 outlined in this section.

21 (5) The department shall certify qualified equity investments in the order applications are re-  
22 ceived by the department. Applications received on the same day shall be deemed to have been  
23 received simultaneously. For applications received on the same day and deemed complete, the de-  
24 partment shall certify, consistent with remaining tax credit capacity, qualified equity investments  
25 in proportionate percentages based upon the ratio of the amount of qualified equity investment re-  
26 quested in an application to the total amount of qualified equity investments requested in all appli-  
27 cations received on the same day. If a pending request cannot be fully certified because of the  
28 limitation in ORS 285C.653, the department shall certify the portion that may be certified unless the  
29 qualified community development entity elects to withdraw its request rather than receive partial  
30 credit.

31 (6) A qualified community development entity that is certified under this section shall pay an  
32 annual evaluation fee of \$1,000 to the department.

33 (7) The department shall establish by rule procedures to administer the provisions of this sec-  
34 tion, including the allocation of tax credits issued for qualified equity investments.

35 **SECTION 3. The amendments to ORS 285C.650 by section 2 of this 2013 Act apply to**  
36 **qualified equity investments made on or after July 1, 2012.**

37 **SECTION 4.** ORS 731.854 is amended to read:

38 731.854. (1) When by or pursuant to the laws of any other state or foreign country any taxes,  
39 licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other  
40 material obligations, prohibitions or restrictions are or would be imposed upon insurers domiciled  
41 in this state, or upon the insurance producers or representatives of such insurers, which are in ex-  
42 cess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines,  
43 penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed  
44 upon similar insurers, or upon the insurance producers or representatives of such insurers, of such  
45 other state or country under the statutes of this state, so long as such laws of such other state or

1 country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate,  
2 or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions  
3 of whatever kind shall be imposed by the Director of the Department of Consumer and Business  
4 Services upon the insurers, or upon the insurance producers or representatives of such insurers, of  
5 such other state or country doing business or seeking to do business in this state. Any tax, license  
6 or other fee or other obligation imposed by any city, county, or other political subdivision or agency  
7 of such other state or country on insurers domiciled in this state or their insurance producers or  
8 representatives shall be deemed to be imposed by such state or country within the meaning of this  
9 subsection.

10 (2) Foreign reciprocal or interinsurance exchanges filing a consolidated return for purposes of  
11 ORS chapter 317 shall prepare and file a separate individual retaliatory tax calculation. The excise  
12 tax for the consolidated group shall be allocated for retaliatory tax purposes among the individual  
13 foreign insurers writing Oregon premiums. The allocation, after excluding the domestic share as  
14 determined by the Director of the Department of Consumer and Business Services by rule, shall be  
15 in the proportion that the premiums written in Oregon by a foreign insurer of the group bears to  
16 the total premiums written in Oregon by all foreign insurers in the group writing premiums in  
17 Oregon.

18 (3) This section does not apply as to personal income taxes, nor as to local ad valorem taxes  
19 on real or personal property nor as to special purpose obligations or assessments heretofore imposed  
20 by another state in connection with particular classes of insurance, other than property insurance;  
21 except that deductions, from premium taxes or other taxes otherwise payable, allowed on account  
22 of real estate or personal property taxes paid shall be taken into consideration by the director in  
23 determining the propriety and extent of retaliatory action under this section.

24 (4) For the purpose of applying this section to an alien insurer, its domicile shall be determined  
25 in accordance with ORS 731.092 and 731.096.

26 (5) For the purpose of applying this section to foreign and alien insurers, the following specif-  
27 ically shall be treated as taxes imposed by this state:

28 (a) The corporate excise tax imposed under ORS chapter 317, **without taking into consider-**  
29 **ation the amount of any reduction due to the credit allowed under ORS 315.533.**

30 (b) The assessments imposed under ORS 731.804 made to support the legislatively authorized  
31 budget of the Department of Consumer and Business Services with respect to the functions of the  
32 department under the Insurance Code.

33 (c) The assessments paid by insurers on behalf of their insureds under ORS 656.612.

34 **SECTION 5. The amendments to ORS 731.854 by section 4 of this 2013 Act apply to tax**  
35 **years beginning on or after January 1, 2013.**

36 **SECTION 6. (1) The Oregon Business Development Department shall annually prepare a**  
37 **report that discloses all costs and fees incurred by the department, or by any other state**  
38 **agency, in administering, during the agency fiscal year ending during the current calendar**  
39 **year, the tax credit allowed under ORS 315.533.**

40 **(2) The report required under this section shall also provide information about qualified**  
41 **equity investments issued on or after July 1, 2013, including, for the previous calendar year**  
42 **and for tax years ending during the previous calendar year:**

43 **(a) The amount of tax credit allowed for the qualified equity investments under ORS**  
44 **315.533;**

45 **(b) The amount of tax credit claimed for the qualified equity investments under ORS**

1 **315.533;**

2 (c) **The costs and expenses of forming the qualified community development entities that**  
3 **issued the qualified equity investments, including but not limited to fees paid for professional**  
4 **services, including legal and accounting services, related to the formation and operation of**  
5 **the entities; and**

6 (d) **Information with respect to qualified equity investments and qualified low-income**  
7 **community investments that would be reported as part of the institution level report and**  
8 **transaction level reports submitted by qualified community development entities pursuant**  
9 **to section 45D of the Internal Revenue Code.**

10 (3) **The Oregon Business Development Department shall submit the report required un-**  
11 **der this section to the Oregon Department of Administrative Services no later than 30 days**  
12 **following the effective date of this 2013 Act and, beginning in 2014, no later than September**  
13 **30 of each year. The information shall then be posted on the Oregon transparency website**  
14 **required under ORS 184.483 no later than December 31 of the same year.**

15 (4) **The information described in this section that is available on the Oregon transparency**  
16 **website must be accessible in the format and manner required by the Oregon Department**  
17 **of Administrative Services.**

18 (5) **The Oregon Business Development Department shall collect data sufficient for the**  
19 **purpose of preparing the report required under this section.**

20 (6) **For purposes of this section, the Oregon Business Development Department may not**  
21 **collect or report proprietary information related to a taxpayer, taxpayers holding qualified**  
22 **equity investments, qualified community development entities or qualified active low-income**  
23 **community businesses, or information about the specific terms of financial agreements per-**  
24 **taining to any project.**

25 **SECTION 7. This 2013 Act takes effect on the 91st day after the date on which the 2013**  
26 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

27