

A-Engrossed House Bill 2980

Ordered by the House April 4
Including House Amendments dated April 4

Sponsored by Representative BAILEY, Senators DINGFELDER, THOMSEN; Representatives BARKER, BENTZ, BERGER, BOONE, CLEM, DEMBROW, GALLEGOS, GELSER, GILLIAM, HUFFMAN, JOHNSON, KENY-GUYER, KOMP, UNGER, Senators BAERTSCHIGER JR, BATES, CLOSE, FERRIOLI, MONNES ANDERSON, ROBLAN, STARR, STEINER HAYWARD

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.

Extends sunset for tax credits for owning or operating farmworker housing [*and for lending to construct or rehabilitate farmworker housing*]. Modifies terminology in statutes addressing farmworker housing.

Renames Farmworker Housing Facilitation Team as Agriculture Workforce Housing Facilitation Team.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to agriculture workforce housing; creating new provisions; amending ORS 314.752, 315.163,
3 315.164, 315.167, 315.169, 315.172, 317.147, 455.380, 456.508, 456.510, 456.585 and 566.340 and sec-
4 tion 28, chapter 913, Oregon Laws 2009; and prescribing an effective date.

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

5 **SECTION 1.** Section 28, chapter 913, Oregon Laws 2009, is amended to read:

6 **Sec. 28.** Except as provided in ORS 315.164 (8), a credit may not be claimed under ORS 315.164
7 for tax years beginning on or after January 1, [2014] **2021**.

8 **NOTE:** Section 2 was deleted by amendment. Subsequent sections were not renumbered.

9 **SECTION 3.** ORS 315.163 is amended to read:

10 315.163. As used in ORS 315.163 to 315.172:

11 (1)(a) "Acquisition costs" means the cost of acquiring buildings, structures and improvements
12 that constitute or will constitute [*farmworker*] **agriculture workforce** housing.

13 (b) "Acquisition costs" does not include the cost of acquiring land on which [*farmworker*] **ag-**
14 **riculture workforce** housing is or will be located.

15 (2) "Agricultural worker" means any person who, for an agreed remuneration or rate of
16 pay, performs temporary or permanent labor for another in the:

17 (a) Production of agricultural or aquacultural crops or products;

18 (b) Handling of agricultural or aquacultural crops or products in an unprocessed stage;

19 (c) Processing of agricultural or aquacultural crops or products;

20 (d) Planting, cultivating or harvesting of seasonal agricultural crops; or

21 (e) Forestation or reforestation of lands, including but not limited to the planting,
22 transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the
23 clearing, piling and disposal of brush and slash and other related activities.
24

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 **(3) “Agriculture workforce housing” means housing:**

2 **(a) Limited to occupancy by agricultural workers, including agricultural workers who are**
3 **retired or disabled, and their immediate families; and**

4 **(b) No dwelling unit of which is occupied by a relative of the owner or operator of the**
5 **agriculture workforce housing, except in the case of a manufactured dwelling in a manufac-**
6 **tured dwelling park nonprofit cooperative as defined in ORS 62.803.**

7 **(4) “Agriculture workforce housing project” means the acquisition, construction, instal-**
8 **lation or rehabilitation of agriculture workforce housing.**

9 [(2)] **(5) “Condition of habitability” means a condition that is in compliance with:**

10 **(a) The applicable provisions of the state building code under ORS chapter 455 and the rules**
11 **adopted thereunder; or**

12 **(b) If determined on or before December 31, 1995, sections 12 and 13, chapter 964, Oregon Laws**
13 **1989.**

14 [(3)] **(6) “Contributor” means a person:**

15 **(a) That acquired, constructed, manufactured or installed [farmworker] agriculture workforce**
16 **housing or contributed money to finance [a farmworker] an agriculture workforce housing project;**
17 **or**

18 **(b) That has purchased or otherwise received via transfer a credit as provided in ORS 315.169**
19 **(2).**

20 [(4)] **(7) “Eligible costs” includes acquisition costs, finance costs, construction costs, excavation**
21 **costs, installation costs and permit costs and excludes land costs.**

22 [(5)] *“Farmworker” means any person who, for an agreed remuneration or rate of pay, performs*
23 *temporary or permanent labor for another in the:*

24 [(a)] *Production of agricultural or aquacultural crops or products;*

25 [(b)] *Handling of agricultural or aquacultural crops or products in an unprocessed stage;*

26 [(c)] *Processing of agricultural or aquacultural crops or products;*

27 [(d)] *Planting, cultivating or harvesting of seasonal agricultural crops; or*

28 [(e)] *Forestation or reforestation of lands, including but not limited to the planting, transplanting,*
29 *tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal*
30 *of brush and slash and other related activities.]*

31 [(6)] *“Farmworker housing” means housing:*

32 [(a)] *Limited to occupancy by farmworkers, including farmworkers who are retired or disabled, and*
33 *their immediate families; and]*

34 [(b)] *No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker*
35 *housing, except in the case of a manufactured dwelling in a manufactured dwelling park nonprofit co-*
36 *operative as that term is defined in ORS 62.803.]*

37 [(7)] *“Farmworker housing project” means the acquisition, construction, installation or rehabili-*
38 *tation of farmworker housing.]*

39 **(8)(a) “Owner” means a person that owns [farmworker] agriculture workforce housing.**

40 **(b) “Owner” does not include a person that only has an interest in the agriculture workforce**
41 **housing as a holder of a security interest.**

42 **(9) “Rehabilitation” means to make repairs or improvements to a building that improve its**
43 **livability and are consistent with applicable building codes.**

44 **(10) “Relative” means a brother or sister (whether by the whole or by half blood), spouse, an-**
45 **cestor (whether by law or by blood), or lineal descendant of an individual.**

1 (11) "Taxpayer" includes a nonprofit corporation, a tax-exempt entity or any other person not
2 subject to tax under ORS chapter 316, 317 or 318.

3 **SECTION 4.** ORS 315.164 is amended to read:

4 315.164. (1) A taxpayer who is the owner or operator of [*farmworker*] **agriculture workforce**
5 housing is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer
6 is a resident individual, or against the taxes otherwise due under ORS chapter 317, if the taxpayer
7 is a corporation. The total amount of the credit shall be equal to 50 percent of the eligible costs
8 actually paid or incurred by the taxpayer to complete [*a farmworker*] **an agriculture workforce**
9 housing project, to the extent the eligible costs actually paid or incurred by the taxpayer do not
10 exceed the estimate of eligible costs approved by the Housing and Community Services Department
11 under ORS 315.167.

12 (2) A taxpayer who is otherwise eligible to claim a credit under this section may elect to
13 transfer all or a portion of the credit to a contributor in the manner provided in ORS 315.169.

14 (3)(a) The credit allowed under this section may be taken for the tax year in which the
15 [*farmworker*] **agriculture workforce** housing project is completed or in any of the nine tax years
16 succeeding the tax year in which the project is completed.

17 (b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined
18 under subsection (1) of this section.

19 (4)(a) To claim a credit under this section, a taxpayer must show in each year following the
20 completion of [*a farmworker*] **an agriculture workforce** housing project that the housing continues
21 to be operated as [*farmworker*] **agriculture workforce** housing.

22 (b) A taxpayer need not make the showing required in paragraph (a) of this subsection if the
23 Housing and Community Services Department waives the requirement after the taxpayer has suc-
24 cessfully met the requirement for the first five years after completion of the **agriculture workforce**
25 housing project.

26 (c) The Housing and Community Services Department shall determine by rule the factors nec-
27 essary to grant a waiver. Such factors may include a documented decline in a particular area for
28 [*farmworker*] **agriculture workforce** housing.

29 (5) The credit shall apply only to [*a farmworker*] **an agriculture workforce** housing project that
30 is located within this state and physically begun on or after January 1, 1990.

31 (6)(a) A credit may not be allowed under this section unless the taxpayer claiming credit under
32 this section:

33 (A) Obtains a letter of credit approval from the Housing and Community Services Department
34 pursuant to ORS 315.167; and

35 (B) Files with the Department of Revenue an annual certification providing that all occupied
36 units for which credit is being claimed are occupied by [*farmworkers, including farmworkers*] **agri-**
37 **cultural workers, including agricultural workers** who are retired or disabled, and their immedi-
38 ate families.

39 (b) The certification described under this subsection shall be made on the form and in the time
40 and manner prescribed by the Department of Revenue.

41 (7) Except as provided under subsection (8) of this section, the credit allowed in any one year
42 may not exceed the tax liability of the taxpayer.

43 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
44 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
45 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried

1 forward and used in the second succeeding tax year, and likewise any credit not used in that second
2 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
3 credit not used in that third succeeding tax year may be carried forward and used in the fourth
4 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
5 forward and used in the fifth succeeding tax year, and any credit not used in that fifth succeeding
6 tax year may be carried forward and used in the sixth succeeding tax year, and any credit not used
7 in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax
8 year, and any credit not used in that seventh succeeding tax year may be carried forward and used
9 in the eighth succeeding tax year, and any credit not used in that eighth succeeding tax year may
10 be carried forward and used in the ninth succeeding tax year, but may not be carried forward for
11 any tax year thereafter.

12 (9)(a) The credit provided by this section is not in lieu of any depreciation or amortization de-
13 duction for the **agriculture workforce housing** project to which the taxpayer otherwise may be
14 entitled under ORS chapter 316 or 317 for the year.

15 (b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by
16 any tax credits allowed under this section.

17 (10) For a taxpayer to receive a credit under this section, the *[farmworker]* **agriculture**
18 **workforce** housing must:

19 (a) Comply with all occupational safety or health laws, rules, regulations and standards;

20 (b) If registration is required, be registered as a farmworker camp with the Department of
21 Consumer and Business Services under ORS 658.750;

22 (c) Upon occupancy and if an indorsement is required, be operated by a person who holds a valid
23 indorsement as a farmworker camp operator under ORS 658.730; and

24 (d) Continue to be operated as *[farmworker]* **agriculture workforce** housing for a period of at
25 least 10 years after the completion of the *[farmworker]* **agriculture workforce** housing project, un-
26 less a waiver has been granted under subsection (4) of this section.

27 (11)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department
28 of Revenue may order the disallowance of the credit allowed under this section if it finds, by order,
29 that:

30 (A) The credit was obtained by fraud or misrepresentation; or

31 (B) In the event that an owner or operator claims or claimed the credit:

32 (i) The taxpayer has failed to continue to substantially comply with the occupational safety or
33 health laws, rules, regulations or standards;

34 (ii) After occupancy and if registration is required, the *[farmworker]* **agriculture workforce**
35 housing is not registered as a farmworker camp with the Department of Consumer and Business
36 Services under ORS 658.750;

37 (iii) After occupancy and if an indorsement is required, the *[farmworker]* **agriculture workforce**
38 housing is not operated by a person who holds a valid indorsement as a farmworker camp operator
39 under ORS 658.730; or

40 (iv) The taxpayer has failed to make a showing that the housing continues to be operated as
41 *[farmworker]* **agriculture workforce** housing as required under subsection (4)(a) of this section and
42 the taxpayer has not been granted a waiver by the Housing and Community Services Department
43 under subsection (4)(b) of this section.

44 (b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or
45 other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of

1 Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior
2 granting of the credit.

3 (c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any
4 further credit provided under this section, in connection with the [*farmworker*] **agriculture**
5 **workforce** housing project, as the case may be, from and after the date that the order of disallow-
6 ance becomes final.

7 (12) In the event that the [*farmworker*] **agriculture workforce** housing is destroyed by fire,
8 flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nev-
9 ertheless claim the credit as if no destruction had taken place. In the event of fire, if the fire chief
10 of the fire protection district or unit determines that the fire was caused by arson, as defined in
11 ORS 164.315 and 164.325, by the taxpayer or by another at the taxpayer's direction, then the fire
12 chief shall notify the Department of Revenue. Upon conviction of arson, the Department of Revenue
13 shall disallow the credit in accordance with subsection (11) of this section.

14 (13)(a) A nonresident individual shall be allowed the credit computed in the same manner and
15 subject to the same limitations as the credit allowed a resident by this section. However, the credit
16 shall be prorated using the proportion provided in ORS 316.117.

17 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
18 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
19 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

20 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
21 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
22 ORS 316.117.

23 (14) The Department of Revenue may adopt rules for carrying out the provisions of this section.

24 **SECTION 5.** ORS 315.167 is amended to read:

25 315.167. (1) Prior to the completion of [*a farmworker*] **an agriculture workforce** housing project
26 for which credit under ORS 315.164 will be claimed, an owner or operator of [*farmworker*] **agricul-**
27 **ture workforce** housing shall apply to the Housing and Community Services Department for a letter
28 of credit approval.

29 (2) The application shall be on such form as is prescribed by the Housing and Community Ser-
30 vices Department and shall provide:

31 (a) The name, address and taxpayer identification number of the taxpayer;

32 (b) The location of the proposed [*farmworker*] **agriculture workforce** housing;

33 (c) A description of the project identifying the type of housing that is the subject of the **agri-**
34 **culture workforce housing** project;

35 (d) An estimate of the eligible costs of the **agriculture workforce housing** project;

36 (e) The number of units in the project dedicated to [*farmworker*] **agriculture workforce** housing
37 and the eligible costs associated with the units;

38 (f) The amount of credit to be claimed by the owner or operator of [*farmworker*] **agriculture**
39 **workforce** housing, and the amount of credit, if any, to be claimed by a contributor under ORS
40 315.169; and

41 (g) Any other information as the Housing and Community Services Department may require.

42 (3) The Housing and Community Services Department may review applications using any rea-
43 sonable system of prioritizing review established by department rule.

44 (4) Applications filed in compliance with this section shall be approved by the Housing and
45 Community Services Department to the extent that the total of estimated eligible costs for all ap-

1 proved **agriculture workforce housing** projects for the calendar year is equal to or less than \$7.25
 2 million. No application shall be approved if the addition of the estimated eligible costs of the project
 3 to the estimated eligible costs for all approved projects for the calendar year would exceed \$7.25
 4 million.

5 (5) Upon approval of an application, the Housing and Community Services Department shall
 6 prepare a letter of credit approval. The letter shall state the approved amount of estimated eligible
 7 costs for the **agriculture workforce housing** project and, if applicable, the portion of credit to be
 8 claimed by an owner or operator of [*farmworker*] **agriculture workforce** housing under ORS 315.164
 9 and the portion of credit to be claimed by a contributor under ORS 315.169. The letter shall be sent:

10 (a) To the owner or operator of [*farmworker*] **agriculture workforce** housing, if any credit is
 11 to be claimed under ORS 315.164; and

12 (b) To the contributor, if any credit is to be claimed under ORS 315.169 and if the contributor
 13 has been identified at the time of approval.

14 (6) At the conclusion of each calendar year, the Housing and Community Services Department
 15 shall send a list of the names, addresses and taxpayer identification numbers of taxpayers to whom
 16 a letter of credit approval has been issued under this section during the calendar year, along with
 17 approved amounts of estimated eligible costs for each **agriculture workforce housing** project, to
 18 the Department of Revenue.

19 (7) Notwithstanding that a letter of credit approval has been issued to a taxpayer under this
 20 section, the Department of Revenue may disallow, in whole or in part, a claim for credit under ORS
 21 315.164 upon the Department of Revenue's determination that under the provisions of ORS 315.164
 22 the taxpayer is not entitled to the credit or is only entitled to a portion of the amount claimed.

23 **SECTION 6.** ORS 315.169 is amended to read:

24 315.169. (1) A taxpayer that is a contributor is allowed a credit against the taxes otherwise due
 25 under ORS chapter 316, if the taxpayer is a resident individual, or ORS chapter 317, if the taxpayer
 26 is a corporation, to the extent the owner or operator of [*farmworker*] **agriculture workforce** hous-
 27 ing transferred all or a portion of the credit allowed to the owner or operator under ORS 315.164.

28 (2) An owner or operator of [*farmworker*] **agriculture workforce** housing may transfer all or
 29 a portion of the credit allowed to the owner or operator under ORS 315.164 to one or more con-
 30 tributors but the amount transferred may not total more than the total credit the owner or operator
 31 may claim.

32 (3) To receive a credit under this section:

33 (a) The contributor must obtain a letter of credit approval from the Housing and Community
 34 Services Department under ORS 315.167; or

35 (b) If the owner or operator of [*farmworker*] **agriculture workforce** housing elects to transfer
 36 all or a portion of the credit allowed under ORS 315.164 after the date that a letter of credit ap-
 37 proval has been issued to the owner or operator, the owner or operator and the contributor must
 38 jointly file a statement with the Department of Revenue stating the portion of the credit the con-
 39 tributor is allowed to claim and any other information the department may require by rule.

40 (4) A contributor remains eligible to receive a credit under this section even if the owner or
 41 operator of the [*farmworker*] **agriculture workforce** housing becomes ineligible for the credit as a
 42 result of:

43 (a) Failure to file the annual certification under ORS 315.164 (6);

44 (b) Failure to continue to substantially comply with occupational safety or health laws, rules,
 45 regulations or standards under ORS 315.164 (10);

1 (c) Failure to register as a farmworker camp with the Department of Consumer and Business
2 Services under ORS 658.750;

3 (d) Failure of the operator to hold a valid indorsement as a farmworker camp operator under
4 ORS 658.730; or

5 (e) Failure to comply with any other rules or provisions relating to the operation or mainte-
6 nance of the [*farmworker*] **agriculture workforce** housing after work on the **agriculture workforce**
7 **housing** project has been completed.

8 (5)(a) A contributor does not remain eligible to receive a credit under this section if the De-
9 partment of Revenue finds, by order of a disallowance of credit and pursuant to the procedures for
10 a contested case under ORS chapter 183, that the contributor obtained the credit by fraud or mis-
11 representation, including a finding that the housing did not comply with all occupational safety or
12 health laws, rules, regulations and standards applicable for [*farmworker*] **agriculture workforce**
13 housing at the time the housing was completed.

14 (b) If the credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other
15 law, all prior tax relief provided to the taxpayer shall be forfeited and the department shall proceed
16 to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.

17 (c) If the credit is disallowed pursuant to this subsection, the taxpayer shall be denied any fur-
18 ther credit provided under this section, in connection with the [*farmworker*] **agriculture workforce**
19 housing project, as the case may be, from and after the date that the order of disallowance becomes
20 final.

21 (6)(a) The credit allowed under this section may be taken for the tax year in which the
22 [*farmworker*] **agriculture workforce** housing project is completed or in any of the nine tax years
23 succeeding the tax year in which the project is completed.

24 (b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined
25 under subsection (2) of this section that was transferred to the contributor claiming the credit.

26 (7) Except as provided under subsection (8) of this section, the credit allowed in any one year
27 may not exceed the tax liability of the taxpayer.

28 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
29 particular tax year may be carried forward and offset against the taxpayer's tax liability for the next
30 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried
31 forward and used in the second succeeding tax year, and likewise any credit not used in that second
32 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
33 credit not used in that third succeeding tax year may be carried forward and used in the fourth
34 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
35 forward and used in the fifth succeeding tax year, and any credit not used in that fifth succeeding
36 tax year may be carried forward and used in the sixth succeeding tax year, and any credit not used
37 in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax
38 year, and any credit not used in that seventh succeeding tax year may be carried forward and used
39 in the eighth succeeding tax year, and any credit not used in that eighth succeeding tax year may
40 be carried forward and used in the ninth succeeding tax year, but may not be carried forward for
41 any tax year thereafter.

42 (9)(a) A nonresident individual shall be allowed the credit computed in the same manner and
43 subject to the same limitations as the credit allowed a resident by this section. However, the credit
44 shall be prorated using the proportion provided in ORS 316.117.

45 (b) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the

1 department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed by this
2 section shall be prorated or computed in a manner consistent with ORS 314.085.

3 (c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
4 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
5 ORS 316.117.

6 (10) The department may adopt rules for carrying out the provisions of this section.

7 **SECTION 7.** ORS 315.172 is amended to read:

8 315.172. Upon an order of the disallowance of a credit for [*farmworker*] **agriculture workforce**
9 housing under ORS 315.164 (11) or 315.169 (5), the Department of Revenue immediately shall collect
10 any taxes due by reason of the disallowance and shall have the benefit of all the laws of this state
11 pertaining to the collection of income and excise taxes. An assessment of the taxes is not necessary
12 and a statute of limitation shall not preclude the collection of the taxes.

13 **SECTION 8.** ORS 317.147 is amended to read:

14 317.147. (1) As used in this section:

15 (a) [*Farmworker*] **"Agriculture workforce housing"** has the meaning given that term in ORS
16 315.163.

17 (b) "Lending institution" means a bank, mortgage banking company, trust company, savings
18 bank, credit union, national banking association, federal savings and loan association, federal credit
19 union maintaining an office in this state, nonprofit community development financial institution or
20 nonprofit public benefit corporation operating as a lending institution.

21 (2)(a) A lending institution shall be allowed a credit against the taxes otherwise due under this
22 chapter for the tax year equal to 50 percent of the interest income earned during the tax year on
23 loans to finance only costs directly associated with construction or rehabilitation of [*farmworker*]
24 **agriculture workforce** housing if, at the time the loan is made, the borrower certifies, to the sat-
25 isfaction of the lender, that upon completion of the construction or rehabilitation and first occupa-
26 tion by [*farmworkers*] **agricultural workers**, the housing will comply with all occupational safety
27 or health laws, rules, regulations and standards applicable for [*farmworker*] **agriculture workforce**
28 housing and that the housing will be occupied only by [*farmworkers*] **agricultural workers** and
29 their immediate families.

30 (b) A copy of the certification described under paragraph (a) of this subsection shall be submit-
31 ted to the Department of Revenue at the time that a credit under this section is first claimed.

32 (3) The credit allowed under this section applies only to loans to construct or rehabilitate
33 [*farmworker*] **agriculture workforce** housing located within this state.

34 (4) This credit applies only to loans made on or after January 1, 1990.

35 (5) The credit allowed in any one year may not exceed the tax liability of the taxpayer.

36 (6) If the loan has a term of longer than 10 years, then the credit shall be allowed only for the
37 tax year of the taxpayer during which the loan is made and the nine tax years immediately follow-
38 ing.

39 (7) The credit allowed under this section does not apply to loans in which the interest rate
40 charged exceeds 13-1/2 percent per annum.

41 (8) The credit allowed under this section applies only to interest income from the loan and does
42 not apply to any other loan fees or other charges collected by the lending institution with respect
43 to the loan.

44 (9) The credit allowed under this section applies only to interest income actually collected by
45 the lending institution during the tax year.

1 (10)(a) Except as provided in paragraph (b) of this subsection, if the lending institution sells the
 2 loan to another lending institution, then the credit shall pass to the assignee or transferee of the
 3 loan, subject to the same conditions and limitations as set forth in this section.

4 (b) A lending institution may assign, sell or otherwise transfer the loan to another person and
 5 retain the right to claim the credit granted under this section if the lending institution also retains
 6 responsibility for servicing the loan.

7 (c)(A) A lending institution that is not subject to taxation under this chapter may sell or oth-
 8 erwise transfer the credit allowed to the lending institution under this section to a taxpayer that
 9 is subject to taxation under this chapter.

10 (B) A transferee of a credit under this section shall be allowed the credit for the tax years that
 11 would have been allowable to the transferor had the transfer not occurred.

12 (C) The Department of Revenue shall by rule establish procedures for transferring a credit under
 13 this section.

14 **SECTION 9.** ORS 314.752 is amended to read:

15 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 16 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 17 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 18 allowable to the shareholders of the S corporation.

19 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 20 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 21 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 22 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 23 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 24 manner prescribed under section 1377(a) of the Internal Revenue Code.

25 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
 26 of this section shall be determined as if such item were realized directly from the source from which
 27 realized by the corporation, or incurred in the same manner as incurred by the corporation.

28 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 29 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 30 316.117, then that provision shall apply to the nonresident shareholder.

31 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
 32 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
 33 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
 34 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
 35 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
 36 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
 37 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
 38 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169
 39 [*farmworker*] (**agriculture workforce** housing), ORS 315.204 (dependent care assistance), ORS
 40 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.304 (pollution
 41 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
 42 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
 43 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
 44 ties), ORS 315.507 (electronic commerce), ORS 315.533 (low income community jobs initiative) and
 45 ORS 317.115 (fueling stations necessary to operate an alternative fuel vehicle).

1 **SECTION 10.** ORS 455.380 is amended to read:

2 455.380. (1) Notwithstanding the provisions of ORS 455.148 and 455.150, the Department of Con-
3 sumer and Business Services is the final authority in interpretation, execution and enforcement of
4 state and municipal administration of building codes and rules with respect to construction of
5 [*farmworker*] **agriculture workforce** housing as defined in ORS 315.163.

6 (2) The department shall provide for a statewide uniform application and method of calculating
7 permit fees for [*farmworker*] **agriculture workforce** housing as defined in ORS 315.163.

8 (3) The department shall adopt rules to carry out the provisions of subsections (1) and (2) of this
9 section.

10 **SECTION 11.** ORS 456.508 is amended to read:

11 456.508. As used in ORS 456.510 and 456.513:

12 (1) “Accessible” means that housing complies with federal accessibility guidelines implementing
13 the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601 et seq., as amended and in effect on
14 January 1, 2004.

15 (2) “Common living space” means a living room, family room, dining room or kitchen.

16 (3) “Contiguous units” means units that are on the same tax lot or on contiguous tax lots that
17 have a common boundary. Tax lots that are separated by a public road are contiguous tax lots for
18 purposes of this subsection.

19 (4) “New” means that the housing being constructed did not previously exist in residential or
20 nonresidential form. “New” does not include the acquisition, alteration, renovation or remodeling
21 of an existing structure.

22 (5) “Powder room” means a room containing at least a toilet and sink.

23 (6) “Rental housing” means a dwelling unit designed for nonowner occupancy under a tenancy
24 typically lasting six months or longer.

25 (7) “Subsidized development” means housing that receives one or more of the following devel-
26 opment subsidies from the Housing and Community Services Department:

27 (a) The federal low-income housing tax credit under 26 U.S.C. 42(a), if no part of the eligible
28 basis prior to the application of 26 U.S.C. 42(i)(2)(B) was financed with an obligation described in
29 26 U.S.C. 42(h)(4)(A), all as amended and in effect on January 1, 2004;

30 (b) [A *farmworker*] **An agriculture workforce** housing tax credit, as described in ORS 315.164;

31 (c) A loan that qualifies the lending institution for a subsidized housing loan tax credit, as de-
32 scribed in ORS 317.097;

33 (d) Funding under the federal HOME Investment Partnerships Act, 42 U.S.C. 12721 to 12839, as
34 amended and in effect on January 1, 2004;

35 (e) Moneys from the Oregon Housing Fund created under ORS 458.620; or

36 (f) Moneys from other grant or tax incentive programs administered by the Housing and Com-
37 munity Services Department under ORS 456.559.

38 (8) “Visitable” means capable of being approached, entered and used by individuals with mobility
39 impairments, including but not limited to individuals using wheelchairs.

40 **SECTION 12.** ORS 456.510 is amended to read:

41 456.510. (1) Except as provided in this section and ORS 456.513, the Housing and Community
42 Services Department may not provide funding for the development of new rental housing that is a
43 subsidized development unless:

44 (a) Each dwelling unit of the housing meets the following requirements:

45 (A) At least one visitable exterior route leading to a dwelling unit entrance that is stepless and

1 has a minimum clearance of 32 inches.

2 (B) One or more visitable routes between the visitable dwelling unit entrance and a visitable
3 common living space.

4 (C) At least one visitable common living space.

5 (D) One or more visitable routes between the dwelling unit entrance and a powder room.

6 (E) A powder room doorway that is stepless and has a minimum clearance of 32 inches.

7 (F) A powder room with walls that are reinforced in a manner suitable for handrail installation.

8 (G) Light switches, electrical outlets and environmental controls that are at a reachable height.

9 (b) For a development that has a shared community room or that has 20 or more contiguous
10 units, there is at least one powder room available for all tenants and guests that is accessible.

11 (2) For a multistory structure without an elevator, this section applies only to dwelling units
12 on the ground floor of the structure.

13 (3) This section does not apply to *[farmworker]* **agriculture workforce** housing as defined in
14 **ORS 315.163 that is** located on a farm.

15 **SECTION 13.** ORS 456.585 is amended to read:

16 456.585. The Housing and Community Services Department shall serve as the primary state
17 agency for *[farmworker housing]* information **about agriculture workforce housing as defined in**
18 **ORS 315.163.** The department shall perform the following duties related to *[farmworker]* **agriculture**
19 **workforce** housing information:

20 (1) Develop an information center for *[farmworker]* **agriculture workforce** housing financing
21 information. The department shall consult with private organizations and the *[Farmworker]* **Agri-**
22 **culture Workforce** Housing Facilitation Team established pursuant to subsection (3) of this section
23 in developing and operating the information center. The information center shall include provision
24 for access by the Internet.

25 (2) To the extent practicable, simplify the application process for funding *[farmworker]* **agricul-**
26 **ture workforce** housing projects as defined in **ORS 315.163.**

27 (3) Establish *[a Farmworker]* **an Agriculture Workforce** Housing Facilitation Team to provide
28 an ongoing discussion forum for state and local government agencies that are involved with
29 *[farmworker]* **agriculture workforce** housing. Team members shall include the Housing and Com-
30 munity Services Department, the Occupational Safety and Health Division, the State Department of
31 Agriculture, the Department of Land Conservation and Development, the Employment Department
32 and the Oregon State University Extension Service. The Housing and Community Services Depart-
33 ment shall also invite Rural Development and the Farm Service Agency of the United States De-
34 partment of Agriculture, the United States Department of Labor, local planning agencies and other
35 interested persons to be members of the team.

36 (4) Ensure that homeowner assistance programs engage in outreach efforts to contact
37 *[farmworkers]* **agricultural workers.**

38 (5) Promote the establishment and use of individual development accounts by *[farmworkers]* **ag-**
39 **ricultural workers** and others.

40 (6) Use a statewide map of crop diversity to determine housing needs, and facilitate the devel-
41 opment of *[farmworker]* **agriculture workforce** housing in appropriate locations.

42 (7) Look at creative ways to provide **agriculture workforce** housing, including but not limited
43 to time-share housing, cooperative housing, mobile and portable housing and modular housing.

44 (8) Work with private businesses, state agencies and nonprofit organizations to maximize the
45 development of *[farmworker]* **agriculture workforce** housing.

1 (9) To the extent practicable, refer housing-based conflicts to dispute resolution processes.

2 **SECTION 14.** ORS 566.340 is amended to read:

3 566.340. Notwithstanding any other provisions of law, the funds and proceeds of the trust assets
4 that are not authorized to be administered by the Secretary of Agriculture of the United States
5 under the provisions of ORS 566.330 shall be received by the Department of State Lands and by it
6 deposited in the State Treasury in an account, separate and distinct from the General Fund. Interest
7 earned by the account shall be credited to the account. Moneys in the account are continuously
8 appropriated to the Housing and Community Services Department and may be expended or obligated
9 by the Housing and Community Services Department for the purposes of ORS 566.330 or for
10 *[farmworker]* **agriculture workforce** housing permissible under the charter of the now dissolved
11 Oregon Rural Rehabilitation Corporation.

12 **SECTION 15.** The amendments to ORS 315.163, 315.164, 315.167, 315.169, 315.172 and 317.147
13 by sections 3 to 8 of this 2013 Act apply to tax years beginning on or after January 1, 2013.

14 **SECTION 16.** (1) The amendments to ORS 456.585 by section 13 of this 2013 Act are in-
15 tended to change the name of the “Farmworker Housing Facilitation Team” to the “Agriculture
16 Workforce Housing Facilitation Team.”

17 (2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
18 may substitute for words designating the “Farmworker Housing Facilitation Team,” wher-
19 ever they occur in statutory law, other words designating the “Agriculture Workforce
20 Housing Facilitation Team.”

21 **SECTION 17.** This 2013 Act takes effect on the 91st day after the date on which the 2013
22 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

23