

House Bill 3013

Sponsored by Representative ESQUIVEL; Representatives PARRISH, SMITH, WEIDNER, WHITSETT

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**.

Excludes real estate appraisals submitted to housing authority or obtained by Housing and Community Services Department from public records disclosure exemption.

A BILL FOR AN ACT

1
2 Relating to real estate appraisals obtained by public entities; amending ORS 192.501 and 192.502.

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

4 **SECTION 1.** ORS 192.501 is amended to read:

5 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
6 unless the public interest requires disclosure in the particular instance:

7 (1) Records of a public body pertaining to litigation to which the public body is a party if the
8 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
9 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
10 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
11 or deposition statutes to a party to litigation or potential litigation.

12 (2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to,
13 any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or
14 compilation of information which is not patented, which is known only to certain individuals within
15 an organization and which is used in a business it conducts, having actual or potential commercial
16 value, and which gives its user an opportunity to obtain a business advantage over competitors who
17 do not know or use it.

18 (3) Investigatory information compiled for criminal law purposes. The record of an arrest or the
19 report of a crime shall be disclosed unless and only for so long as there is a clear need to delay
20 disclosure in the course of a specific investigation, including the need to protect the complaining
21 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
22 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
23 record of an arrest or the report of a crime includes, but is not limited to:

24 (a) The arrested person's name, age, residence, employment, marital status and similar bi-
25 ographical information;

26 (b) The offense with which the arrested person is charged;

27 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

28 (d) The identity of and biographical information concerning both complaining party and victim;

29 (e) The identity of the investigating and arresting agency and the length of the investigation;

30 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

31 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives

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 from justice.

2 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
 3 employment, academic or other examination or testing procedure before the examination is given
 4 and if the examination is to be used again. Records establishing procedures for and instructing
 5 persons administering, grading or evaluating an examination or testing procedure are included in
 6 this exemption, to the extent that disclosure would create a risk that the result might be affected.

7 (5) Information consisting of production records, sale or purchase records or catch records, or
 8 similar business records of a private concern or enterprise, required by law to be submitted to or
 9 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
 10 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
 11 that such information is in a form which would permit identification of the individual concern or
 12 enterprise. This exemption does not include records submitted by long term care facilities as defined
 13 in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for pa-
 14 tient care. Nothing in this subsection shall limit the use which can be made of such information for
 15 regulatory purposes or its admissibility in any enforcement proceeding.

16 (6) Information relating to the appraisal of real estate prior to its acquisition.

17 (7) The names and signatures of employees who sign authorization cards or petitions for the
 18 purpose of requesting representation or decertification elections.

19 (8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825,
 20 until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under
 21 ORS 659A.850.

22 (9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and
 23 663.180.

24 (10) Records, reports and other information received or compiled by the Director of the De-
 25 partment of Consumer and Business Services under ORS 697.732.

26 (11) Information concerning the location of archaeological sites or objects as those terms are
 27 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
 28 the need for the information is related to that Indian tribe's cultural or religious activities. This
 29 exemption does not include information relating to a site that is all or part of an existing, commonly
 30 known and publicized tourist facility or attraction.

31 (12) A personnel discipline action, or materials or documents supporting that action.

32 (13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and
 33 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
 34 cies.

35 (14) Writings prepared by or under the direction of faculty of public educational institutions, in
 36 connection with research, until publicly released, copyrighted or patented.

37 (15) Computer programs developed or purchased by or for any public body for its own use. As
 38 used in this subsection, "computer program" means a series of instructions or statements which
 39 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
 40 manipulation of data from such computer system, and any associated documentation and source
 41 material that explain how to operate the computer program. "Computer program" does not include:

42 (a) The original data, including but not limited to numbers, text, voice, graphics and images;

43 (b) Analyses, compilations and other manipulated forms of the original data produced by use of
 44 the program; or

45 (c) The mathematical and statistical formulas which would be used if the manipulated forms of

1 the original data were to be produced manually.

2 (16) Data and information provided by participants to mediation under ORS 36.256.

3 (17) Investigatory information relating to any complaint or charge filed under ORS chapter 654,
4 until a final administrative determination is made or, if a citation is issued, until an employer re-
5 ceives notice of any citation.

6 (18) Specific operational plans in connection with an anticipated threat to individual or public
7 safety for deployment and use of personnel and equipment, prepared or used by a public body, if
8 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
9 law enforcement activity.

10 (19)(a) Audits or audit reports required of a telecommunications carrier. As used in this para-
11 graph, "audit or audit report" means any external or internal audit or audit report pertaining to a
12 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
13 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
14 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
15 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
16 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
17 audit of a cost study that would be discoverable in a contested case proceeding and that is not
18 subject to a protective order; and

19 (b) Financial statements. As used in this paragraph, "financial statement" means a financial
20 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
21 with a telecommunications carrier, as defined in ORS 133.721.

22 (20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS
23 247.967.

24 (21) The following records, communications and information submitted to a housing authority
25 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
26 for and recipients of loans, grants and tax credits:

27 (a) Personal and corporate financial statements and information, including tax returns;

28 (b) Credit reports;

29 (c) Project appraisals, **excluding appraisals obtained in the course of transactions involving**
30 **an interest in real estate that is acquired, leased, rented, exchanged, transferred or other-**
31 **wise disposed of as part of the project, but only after the transactions have closed and are**
32 **concluded;**

33 (d) Market studies and analyses;

34 (e) Articles of incorporation, partnership agreements and operating agreements;

35 (f) Commitment letters;

36 (g) Project pro forma statements;

37 (h) Project cost certifications and cost data;

38 (i) Audits;

39 (j) Project tenant correspondence requested to be confidential;

40 (k) Tenant files relating to certification; and

41 (L) Housing assistance payment requests.

42 (22) Records or information that, if disclosed, would allow a person to:

43 (a) Gain unauthorized access to buildings or other property;

44 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
45 disruption to, or interference with, services; or

1 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
2 cessing, communication or telecommunication systems, including the information contained in the
3 systems, that are used or operated by a public body.

4 (23) Records or information that would reveal or otherwise identify security measures, or
5 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
6 protect:

7 (a) An individual;

8 (b) Buildings or other property;

9 (c) Information processing, communication or telecommunication systems, including the infor-
10 mation contained in the systems; or

11 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
12 evaluation under ORS 461.180 (6).

13 (24) Personal information held by or under the direction of officials of the Oregon Health and
14 Science University or the Oregon University System about a person who has or who is interested
15 in donating money or property to the university, the system or a public university listed in ORS
16 352.002, if the information is related to the family of the person, personal assets of the person or is
17 incidental information not related to the donation.

18 (25) The home address, professional address and telephone number of a person who has or who
19 is interested in donating money or property to the Oregon University System.

20 (26) Records of the name and address of a person who files a report with or pays an assessment
21 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
22 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

23 (27) Information provided to, obtained by or used by a public body to authorize, originate, re-
24 ceive or authenticate a transfer of funds, including but not limited to a credit card number, payment
25 card expiration date, password, financial institution account number and financial institution routing
26 number.

27 (28) Social Security numbers as provided in ORS 107.840.

28 (29) The electronic mail address of a student who attends a public university listed in ORS
29 352.002 or Oregon Health and Science University.

30 (30) The name, home address, professional address or location of a person that is engaged in,
31 or that provides goods or services for, medical research at Oregon Health and Science University
32 that is conducted using animals other than rodents. This subsection does not apply to Oregon Health
33 and Science University press releases, websites or other publications circulated to the general pub-
34 lic.

35 (31) If requested by a public safety officer, as defined in ORS 181.610:

36 (a) The home address and home telephone number of the public safety officer contained in the
37 voter registration records for the public safety officer.

38 (b) The home address and home telephone number of the public safety officer contained in re-
39 cords of the Department of Public Safety Standards and Training.

40 (c) The name of the public safety officer contained in county real property assessment or taxa-
41 tion records. This exemption:

42 (A) Applies only to the name of the public safety officer and any other owner of the property
43 in connection with a specific property identified by the officer in a request for exemption from dis-
44 closure;

45 (B) Applies only to records that may be made immediately available to the public upon request

1 in person, by telephone or using the Internet;

2 (C) Applies until the public safety officer requests termination of the exemption;

3 (D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
4 governmental purposes; and

5 (E) May not result in liability for the county if the name of the public safety officer is disclosed
6 after a request for exemption from disclosure is made under this subsection.

7 (32) Unless the public records request is made by a financial institution, as defined in ORS
8 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage
9 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
10 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
11 by an individual described in paragraph (b) of this subsection using the procedure described in par-
12 agraph (c) of this subsection:

13 (a) The home address, home or cellular telephone number or personal electronic mail address
14 contained in the records of any public body that has received the request that is set forth in:

15 (A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction,
16 substitution of trustee, easement, dog license, marriage license or military discharge record that is
17 in the possession of the county clerk; or

18 (B) Any public record of a public body other than the county clerk.

19 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
20 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
21 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
22 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
23 in the prosecution of criminal matters.

24 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
25 writing with the public body for which the exemption from disclosure is being claimed on a form
26 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
27 list the public records in the possession of the public body to which the exemption applies. The ex-
28 emption applies until the individual claiming the exemption requests termination of the exemption
29 or ceases to qualify for the exemption.

30 (33) Land management plans required for voluntary stewardship agreements entered into under
31 ORS 541.423.

32 (34) Sensitive business records or financial or commercial information of the State Accident In-
33 surance Fund Corporation that is not customarily provided to business competitors. This exemption
34 does not:

35 (a) Apply to the formulas for determining dividends to be paid to employers insured by the State
36 Accident Insurance Fund Corporation;

37 (b) Apply to contracts for advertising, public relations or lobbying services or to documents re-
38 lated to the formation of such contracts;

39 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
40 tracts, except that employer account records shall remain exempt from disclosure as provided in
41 ORS 192.502 (35); or

42 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-
43 plicable rules of civil procedure.

44 (35) Records of the Department of Public Safety Standards and Training relating to investi-
45 gations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described

1 in ORS 181.662 or 181.878.

2 (36) A medical examiner’s report, autopsy report or laboratory test report ordered by a medical
3 examiner under ORS 146.117.

4 (37) Any document or other information related to an audit of a public body, as defined in ORS
5 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
6 cognized government auditing standards, until the auditor or audit organization issues a final audit
7 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
8 hibit disclosure of a draft audit report that is provided to the audited entity for the entity’s response
9 to the audit findings.

10 **SECTION 2.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7,
11 chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, section 2, chapter 48,
12 Oregon Laws 2008, section 3, chapter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws
13 2009, section 4, chapter 222, Oregon Laws 2009, section 2, chapter 769, Oregon Laws 2009, section
14 15, chapter 9, Oregon Laws 2011, section 2, chapter 285, Oregon Laws 2011, and section 69, chapter
15 637, Oregon Laws 2011, is amended to read:

16 192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505
17 unless the public interest requires disclosure in the particular instance:

18 (1) Records of a public body pertaining to litigation to which the public body is a party if the
19 complaint has been filed, or if the complaint has not been filed, if the public body shows that such
20 litigation is reasonably likely to occur. This exemption does not apply to litigation which has been
21 concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery
22 or deposition statutes to a party to litigation or potential litigation.

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32 party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or
33 granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the
34 record of an arrest or the report of a crime includes, but is not limited to:

35 (a) The arrested person’s name, age, residence, employment, marital status and similar bi-
36 ographical information;

37 (b) The offense with which the arrested person is charged;

38 (c) The conditions of release pursuant to ORS 135.230 to 135.290;

39 (d) The identity of and biographical information concerning both complaining party and victim;

40 (e) The identity of the investigating and arresting agency and the length of the investigation;

41 (f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

42 (g) Such information as may be necessary to enlist public assistance in apprehending fugitives
43 from justice.

44 (4) Test questions, scoring keys, and other data used to administer a licensing examination,
45 employment, academic or other examination or testing procedure before the examination is given

1 and if the examination is to be used again. Records establishing procedures for and instructing
 2 persons administering, grading or evaluating an examination or testing procedure are included in
 3 this exemption, to the extent that disclosure would create a risk that the result might be affected.

4 (5) Information consisting of production records, sale or purchase records or catch records, or
 5 similar business records of a private concern or enterprise, required by law to be submitted to or
 6 inspected by a governmental body to allow it to determine fees or assessments payable or to estab-
 7 lish production quotas, and the amounts of such fees or assessments payable or paid, to the extent
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 12 regulatory purposes or its admissibility in any enforcement proceeding.

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 18 ORS 659A.850.

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 20 663.180.

21 (10) Records, reports and other information received or compiled by the Director of the De-
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 24 defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and
 25 the need for the information is related to that Indian tribe's cultural or religious activities. This
 26 exemption does not include information relating to a site that is all or part of an existing, commonly
 27 known and publicized tourist facility or attraction.

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 30 564.100, regarding the habitat, location or population of any threatened species or endangered spe-
 31 cies.

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 33 connection with research, until publicly released, copyrighted or patented.

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 36 permit the functioning of a computer system in a manner designed to provide storage, retrieval and
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 38 material that explain how to operate the computer program. "Computer program" does not include:

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 41 the program; or

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 43 the original data were to be produced manually.

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 2 ceives notice of any citation.

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 5 public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a
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 9 telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an af-
 10 filiated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to
 11 make the operations of the entity more efficient, accurate or compliant with applicable rules, pro-
 12 cedures or standards, that may include self-criticism and that has been filed by the telecommuni-
 13 cations carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an
 14 audit of a cost study that would be discoverable in a contested case proceeding and that is not
 15 subject to a protective order; and

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 17 statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390,
 18 with a telecommunications carrier, as defined in ORS 133.721.

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 20 247.967.

21 (21) The following records, communications and information submitted to a housing authority
 22 as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants
 23 for and recipients of loans, grants and tax credits:

24 (a) Personal and corporate financial statements and information, including tax returns;

25 (b) Credit reports;

26 (c) Project appraisals, **excluding appraisals obtained in the course of transactions involving**
 27 **an interest in real estate that is acquired, leased, rented, exchanged, transferred or other-**
 28 **wise disposed of as part of the project, but only after the transactions have closed and are**
 29 **concluded;**

30 (d) Market studies and analyses;

31 (e) Articles of incorporation, partnership agreements and operating agreements;

32 (f) Commitment letters;

33 (g) Project pro forma statements;

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36 (j) Project tenant correspondence requested to be confidential;

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39 (22) Records or information that, if disclosed, would allow a person to:

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41 (b) Identify those areas of structural or operational vulnerability that would permit unlawful
 42 disruption to, or interference with, services; or

43 (c) Disrupt, interfere with or gain unauthorized access to public funds or to information pro-
 44 cessing, communication or telecommunication systems, including the information contained in the
 45 systems, that are used or operated by a public body.

1 (23) Records or information that would reveal or otherwise identify security measures, or
 2 weaknesses or potential weaknesses in security measures, taken or recommended to be taken to
 3 protect:

4 (a) An individual;

5 (b) Buildings or other property;

6 (c) Information processing, communication or telecommunication systems, including the infor-
 7 mation contained in the systems; or

8 (d) Those operations of the Oregon State Lottery the security of which are subject to study and
 9 evaluation under ORS 461.180 (6).

10 (24) Personal information held by or under the direction of officials of the Oregon Health and
 11 Science University or the Oregon University System about a person who has or who is interested
 12 in donating money or property to the university, the system or a public university listed in ORS
 13 352.002, if the information is related to the family of the person, personal assets of the person or is
 14 incidental information not related to the donation.

15 (25) The home address, professional address and telephone number of a person who has or who
 16 is interested in donating money or property to the Oregon University System.

17 (26) Records of the name and address of a person who files a report with or pays an assessment
 18 to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council
 19 created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

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 22 card expiration date, password, financial institution account number and financial institution routing
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24 (28) Social Security numbers as provided in ORS 107.840.

25 (29) The electronic mail address of a student who attends a public university listed in ORS
 26 352.002 or Oregon Health and Science University.

27 (30) If requested by a public safety officer, as defined in ORS 181.610:

28 (a) The home address and home telephone number of the public safety officer contained in the
 29 voter registration records for the public safety officer.

30 (b) The home address and home telephone number of the public safety officer contained in re-
 31 cords of the Department of Public Safety Standards and Training.

32 (c) The name of the public safety officer contained in county real property assessment or taxa-
 33 tion records. This exemption:

34 (A) Applies only to the name of the public safety officer and any other owner of the property
 35 in connection with a specific property identified by the officer in a request for exemption from dis-
 36 closure;

37 (B) Applies only to records that may be made immediately available to the public upon request
 38 in person, by telephone or using the Internet;

39 (C) Applies until the public safety officer requests termination of the exemption;

40 (D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for
 41 governmental purposes; and

42 (E) May not result in liability for the county if the name of the public safety officer is disclosed
 43 after a request for exemption from disclosure is made under this subsection.

44 (31) Unless the public records request is made by a financial institution, as defined in ORS
 45 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage

1 broker licensed under ORS 86A.095 to 86A.198, or title company for business purposes, records de-
 2 scribed in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought
 3 by an individual described in paragraph (b) of this subsection using the procedure described in par-
 4 agraph (c) of this subsection:

5 (a) The home address, home or cellular telephone number or personal electronic mail address
 6 contained in the records of any public body that has received the request that is set forth in:

7 (A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction,
 8 substitution of trustee, easement, dog license, marriage license or military discharge record that is
 9 in the possession of the county clerk; or

10 (B) Any public record of a public body other than the county clerk.

11 (b) The individual claiming the exemption from disclosure must be a district attorney, a deputy
 12 district attorney, the Attorney General or an assistant attorney general, the United States Attorney
 13 for the District of Oregon or an assistant United States attorney for the District of Oregon, a city
 14 attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages
 15 in the prosecution of criminal matters.

16 (c) The individual claiming the exemption from disclosure must do so by filing the claim in
 17 writing with the public body for which the exemption from disclosure is being claimed on a form
 18 prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall
 19 list the public records in the possession of the public body to which the exemption applies. The ex-
 20 emption applies until the individual claiming the exemption requests termination of the exemption
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22 (32) Land management plans required for voluntary stewardship agreements entered into under
 23 ORS 541.423.

24 (33) Sensitive business records or financial or commercial information of the State Accident In-
 25 surance Fund Corporation that is not customarily provided to business competitors. This exemption
 26 does not:

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 28 Accident Insurance Fund Corporation;

29 (b) Apply to contracts for advertising, public relations or lobbying services or to documents re-
 30 lated to the formation of such contracts;

31 (c) Apply to group insurance contracts or to documents relating to the formation of such con-
 32 tracts, except that employer account records shall remain exempt from disclosure as provided in
 33 ORS 192.502 (35); or

34 (d) Provide the basis for opposing the discovery of documents in litigation pursuant to the ap-
 35 plicable rules of civil procedure.

36 (34) Records of the Department of Public Safety Standards and Training relating to investi-
 37 gations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described
 38 in ORS 181.662 or 181.878.

39 (35) A medical examiner's report, autopsy report or laboratory test report ordered by a medical
 40 examiner under ORS 146.117.

41 (36) Any document or other information related to an audit of a public body, as defined in ORS
 42 174.109, that is in the custody of an auditor or audit organization operating under nationally re-
 43 cognized government auditing standards, until the auditor or audit organization issues a final audit
 44 report in accordance with those standards or the audit is abandoned. This exemption does not pro-
 45 hibit disclosure of a draft audit report that is provided to the audited entity for the entity's response

1 to the audit findings.

2 **SECTION 3.** ORS 192.502, as amended by section 26, chapter 45, Oregon Laws 2012, and
 3 sections 19 and 30, chapter 90, Oregon Laws 2012, is amended to read:

4 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

5 (1) Communications within a public body or between public bodies of an advisory nature to the
 6 extent that they cover other than purely factual materials and are preliminary to any final agency
 7 determination of policy or action. This exemption shall not apply unless the public body shows that
 8 in the particular instance the public interest in encouraging frank communication between officials
 9 and employees of public bodies clearly outweighs the public interest in disclosure.

10 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
 11 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
 12 public interest by clear and convincing evidence requires disclosure in the particular instance. The
 13 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
 14 tute an unreasonable invasion of privacy.

15 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and
 16 telephone numbers contained in personnel records maintained by the public body that is the em-
 17 ployer or the recipient of volunteer services. This exemption:

18 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
 19 unteers who are elected officials, except that a judge or district attorney subject to election may
 20 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
 21 terms of ORS 192.445;

22 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
 23 shows by clear and convincing evidence that the public interest requires disclosure in a particular
 24 instance;

25 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
 26 fessional education association of which the substitute teacher may be a member; and

27 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

28 (4) Information submitted to a public body in confidence and not otherwise required by law to
 29 be submitted, where such information should reasonably be considered confidential, the public body
 30 has obliged itself in good faith not to disclose the information, and when the public interest would
 31 suffer by the disclosure.

32 (5) Information or records of the Department of Corrections, including the State Board of Parole
 33 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
 34 a person in custody of the department or substantially prejudice or prevent the carrying out of the
 35 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
 36 terest in disclosure.

37 (6) Records, reports and other information received or compiled by the Director of the Depart-
 38 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
 39 otherwise required by law to be made public, to the extent that the interests of lending institutions,
 40 their officers, employees and customers in preserving the confidentiality of such information out-
 41 weighs the public interest in disclosure.

42 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

43 (8) Any public records or information the disclosure of which is prohibited by federal law or
 44 regulations.

45 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-

1 wise made confidential or privileged under Oregon law.

2 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
3 compiled in a public record when:

4 (A) The basis for the claim of exemption is ORS 40.225;

5 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
6 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
7 to 192.505;

8 (C) The factual information was compiled by or at the direction of an attorney as part of an
9 investigation on behalf of the public body in response to information of possible wrongdoing by the
10 public body;

11 (D) The factual information was not compiled in preparation for litigation, arbitration or an
12 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
13 or against the public body; and

14 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
15 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
16 rection.

17 (10) Public records or information described in this section, furnished by the public body ori-
18 ginally compiling, preparing or receiving them to any other public officer or public body in con-
19 nection with performance of the duties of the recipient, if the considerations originally giving rise
20 to the confidential or exempt nature of the public records or information remain applicable.

21 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
22 programs pursuant to ORS 469.530.

23 (12) Employee and retiree address, telephone number and other nonfinancial membership records
24 and employee financial records maintained by the Public Employees Retirement System pursuant to
25 ORS chapters 238 and 238A.

26 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
27 agents of the treasurer or the council relating to active or proposed publicly traded investments
28 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
29 liquidation of the investments. For the purposes of this subsection:

30 (a) The exemption does not apply to:

31 (A) Information in investment records solely related to the amount paid directly into an invest-
32 ment by, or returned from the investment directly to, the treasurer or council; or

33 (B) The identity of the entity to which the amount was paid directly or from which the amount
34 was received directly.

35 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
36 or liquidation of the investment has been concluded.

37 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
38 Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual
39 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a
40 private asset including but not limited to records regarding the solicitation, acquisition, deployment,
41 exchange or liquidation of the investments including but not limited to:

42 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
43 or to their respective investment vehicles.

44 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
45 ment vehicles.

1 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
2 vehicles.

3 (D) Records containing information regarding the portfolio positions in which an investment
4 fund, an asset ownership or their respective investment vehicles invest.

5 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
6 spective investment vehicles.

7 (F) Investment agreements and related documents.

8 (b) The exemption under this subsection does not apply to:

9 (A) The name, address and vintage year of each privately placed investment fund.

10 (B) The dollar amount of the commitment made to each privately placed investment fund since
11 inception of the fund.

12 (C) The dollar amount of cash contributions made to each privately placed investment fund since
13 inception of the fund.

14 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
15 Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the
16 treasurer, council or board from each privately placed investment fund.

17 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
18 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
19 Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

20 (F) The net internal rate of return of each privately placed investment fund since inception of
21 the fund.

22 (G) The investment multiple of each privately placed investment fund since inception of the fund.

23 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
24 basis to each privately placed investment fund.

25 (I) The dollar amount of cash profit received from each privately placed investment fund on a
26 fiscal year-end basis.

27 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
28 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
29 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

30 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
31 by ORS 98.352.

32 (17)(a) The following records, communications and information submitted to the Oregon Business
33 Development Commission, the Oregon Business Development Department, the State Department of
34 Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports as defined in
35 ORS 777.005, or a county or city governing body and any board, department, commission, council
36 or agency thereof, by applicants for investment funds, grants, loans, services or economic develop-
37 ment moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

38 (A) Personal financial statements.

39 (B) Financial statements of applicants.

40 (C) Customer lists.

41 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
42 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
43 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
44 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
45 ery or deposition statutes to a party to litigation or potential litigation.

1 (E) Production, sales and cost data.

2 (F) Marketing strategy information that relates to applicant's plan to address specific markets
3 and applicant's strategy regarding specific competitors.

4 (b) The following records, communications and information submitted to the State Department
5 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

6 (A) Personal financial statements.

7 (B) Financial statements of applicants.

8 (C) Customer lists.

9 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
10 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
11 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
12 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
13 ery or deposition statutes to a party to litigation or potential litigation.

14 (E) Production, sales and cost data.

15 (F) Marketing strategy information that relates to applicant's plan to address specific markets
16 and applicant's strategy regarding specific competitors.

17 (18) Records, reports or returns submitted by private concerns or enterprises required by law
18 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
19 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
20 information is in a form which would permit identification of the individual concern or enterprise.
21 Nothing in this subsection shall limit the use which can be made of such information for regulatory
22 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
23 payer of the delinquency immediately by certified mail. However, in the event that the payment or
24 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
25 public body shall disclose, upon the request of any person, the following information:

26 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
27 payment or delivery of the taxes.

28 (b) The period for which the taxes are delinquent.

29 (c) The actual, or estimated, amount of the delinquency.

30 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
31 pointed counsel, and all information supplied to the court from whatever source for the purpose of
32 verifying the financial eligibility of a person pursuant to ORS 151.485.

33 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
34 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
35 ness Services, in any of the following circumstances:

36 (a) When necessary for insurers, self-insured employers and third party claim administrators to
37 process workers' compensation claims.

38 (b) When necessary for the director, other governmental agencies of this state or the United
39 States to carry out their duties, functions or powers.

40 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
41 to identify any worker who is the subject of a claim.

42 (d) When a worker or the worker's representative requests review of the worker's claim record.

43 (21) Sensitive business records or financial or commercial information of the Oregon Health and
44 Science University that is not customarily provided to business competitors.

45 (22) Records of Oregon Health and Science University regarding candidates for the position of

1 president of the university.

2 (23) The records of a library, including:

3 (a) Circulation records, showing use of specific library material by a named person;

4 (b) The name of a library patron together with the address or telephone number of the patron;
5 and

6 (c) The electronic mail address of a patron.

7 (24) The following records, communications and information obtained by the Housing and Com-
8 munity Services Department in connection with the department's monitoring or administration of
9 financial assistance or of housing or other developments:

10 (a) Personal and corporate financial statements and information, including tax returns.

11 (b) Credit reports.

12 (c) Project appraisals, **excluding appraisals obtained in the course of transactions involving**
13 **an interest in real estate that is acquired, leased, rented, exchanged, transferred or other-**
14 **wise disposed of as part of the project, but only after the transactions have closed and are**
15 **concluded.**

16 (d) Market studies and analyses.

17 (e) Articles of incorporation, partnership agreements and operating agreements.

18 (f) Commitment letters.

19 (g) Project pro forma statements.

20 (h) Project cost certifications and cost data.

21 (i) Audits.

22 (j) Project tenant correspondence.

23 (k) Personal information about a tenant.

24 (L) Housing assistance payments.

25 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
26 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
27 that is not otherwise required by law to be submitted.

28 (26) Sensitive business, commercial or financial information furnished to or developed by a
29 public body engaged in the business of providing electricity or electricity services, if the information
30 is directly related to a transaction described in ORS 261.348, or if the information is directly related
31 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
32 disclosure of the information would cause a competitive disadvantage for the public body or its re-
33 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
34 velopment or review of generally applicable rate schedules.

35 (27) Sensitive business, commercial or financial information furnished to or developed by the
36 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
37 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
38 and disclosure of the information would cause a competitive disadvantage for the Klamath
39 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
40 ment or review of generally applicable rate schedules.

41 (28) Personally identifiable information about customers of a municipal electric utility or a
42 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
43 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
44 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
45 lease personally identifiable information about a customer, and a public body providing water, sewer

1 or storm drain services may release the name, date of birth, driver license number, telephone num-
 2 ber, electronic mail address or Social Security number of a customer, if the customer consents in
 3 writing or electronically, if the disclosure is necessary for the utility, district or other public body
 4 to render services to the customer, if the disclosure is required pursuant to a court order or if the
 5 disclosure is otherwise required by federal or state law. The utility, district or other public body
 6 may charge as appropriate for the costs of providing such information. The utility, district or other
 7 public body may make customer records available to third party credit agencies on a regular basis
 8 in connection with the establishment and management of customer accounts or in the event such
 9 accounts are delinquent.

10 (29) A record of the street and number of an employee's address submitted to a special district
 11 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

12 (30) Sensitive business records, capital development plans or financial or commercial information
 13 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

14 (31) Documents, materials or other information submitted to the Director of the Department of
 15 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
 16 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
 17 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
 18 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
 19 when:

20 (a) The document, material or other information is received upon notice or with an under-
 21 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
 22 the document, material or other information; and

23 (b) The director has obligated the Department of Consumer and Business Services not to dis-
 24 close the document, material or other information.

25 (32) A county elections security plan developed and filed under ORS 254.074.

26 (33) Information about review or approval of programs relating to the security of:

27 (a) Generation, storage or conveyance of:

28 (A) Electricity;

29 (B) Gas in liquefied or gaseous form;

30 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

31 (D) Petroleum products;

32 (E) Sewage; or

33 (F) Water.

34 (b) Telecommunication systems, including cellular, wireless or radio systems.

35 (c) Data transmissions by whatever means provided.

36 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
 37 ignates the information as confidential by rule under ORS 1.002.

38 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

39 (b) As used in this subsection, "employer account records" means all records maintained in any
 40 form that are specifically related to the account of any employer insured, previously insured or un-
 41 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
 42 mation obtained or developed by the corporation in connection with providing, offering to provide
 43 or declining to provide insurance to a specific employer. "Employer account records" includes, but
 44 is not limited to, an employer's payroll records, premium payment history, payroll classifications,
 45 employee names and identification information, experience modification factors, loss experience and

1 dividend payment history.

2 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
3 discovery documents in litigation pursuant to applicable rules of civil procedure.

4 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

5 (b) As used in this subsection, "claimant files" includes, but is not limited to, all records held
6 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
7 records pertaining to such a claim.

8 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
9 discovery documents in litigation pursuant to applicable rules of civil procedure.

10 (37) Except as authorized by ORS 408.425, records that certify or verify an individual's discharge
11 or other separation from military service.

12 (38) Records of or submitted to a domestic violence service or resource center that relate to the
13 name or personal information of an individual who visits a center for service, including the date of
14 service, the type of service received, referrals or contact information or personal information of a
15 family member of the individual. As used in this subsection, "domestic violence service or resource
16 center" means an entity, the primary purpose of which is to assist persons affected by domestic or
17 sexual violence by providing referrals, resource information or other assistance specifically of ben-
18 efit to domestic or sexual violence victims.

19
