

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2763**

1 In line 2 of the printed A-engrossed bill, after “development;” delete the
2 rest of the line and insert “creating new provisions; amending ORS 285C.650,
3 315.533 and 731.854; and prescribing an effective date.”.

4 Delete lines 4 through 13 insert:

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

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

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

14 “(3)(a) The total amount of the tax credit available to a taxpayer under
15 this section shall equal 39 percent of the purchase price of the qualified eq-
16 uity investment.

17 “(b) The taxpayer that holds a qualified equity investment on a particular
18 credit allowance date of the qualified equity investment may claim a portion
19 of the tax credit against its tax liability for the tax year that includes the
20 credit allowance date equal to the applicable percentage for that credit al-
21 lowance date multiplied by the purchase price of the qualified equity in-
22 vestment.

1 “(4)(a) The credit allowed under this section may not exceed the tax li-
2 ability of the taxpayer for the tax year in which the credit is claimed.

3 “(b) **Notwithstanding ORS 314.078, a taxpayer may elect to claim**
4 **less than the full amount of the credit allowed under this section.**

5 “(5) Any tax credit otherwise allowable under this section that is not used
6 by the taxpayer in a particular tax year may be carried forward and offset
7 against the taxpayer’s tax liability in any succeeding tax year.

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

10 “(a) A qualified community development entity that issues a debt instru-
11 ment may not make cash interest payments on the debt instrument during
12 the period commencing with its issuance and ending on its final credit al-
13 lowance date in excess of the sum of the cash interest payments and the
14 cumulative operating income, as defined in the regulations promulgated un-
15 der section 45D of the Internal Revenue Code, of the qualified community
16 development entity for the same period. Neither this paragraph nor the de-
17 finition of ‘long-term debt security’ provided in ORS 315.529 in any way
18 limits the holder’s ability to accelerate payments on the debt instrument in
19 situations where the qualified community development entity has defaulted
20 on covenants designed to ensure compliance with this section or section 45D
21 of the Internal Revenue Code.

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

29 “(c) A qualified equity investment must be designated by the issuer as a
30 qualified equity investment and be certified by the Oregon Business Devel-

1 opment Department as not exceeding the limitation in ORS 285C.653. The
2 qualified community development entity must keep sufficiently detailed
3 books and records with respect to the investments made with the proceeds
4 of the qualified equity investments to allow the direct tracing of proceeds
5 into qualified low-income community investments in qualified active low-
6 income community businesses in this state.

7 “(d) The qualified community development entity shall report annually to
8 the department:

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

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

14 “(C) The number of positions described in subparagraph (A) of this para-
15 graph that provide health benefits.

16 “(e) The maximum amount of qualified low-income community investments
17 that may be made in a qualified active low-income community business and
18 all of its affiliates, with the proceeds of qualified equity investments that
19 have been certified under ORS 285C.650, shall be [*\$4 million*] **\$10 million**,
20 whether made by one or several qualified community development entities.

21 “(f) A qualified equity investment must be made before July 1, 2016.
22 Nothing in this paragraph precludes an entity that makes a qualified equity
23 investment prior to July 1, 2016, from claiming a tax credit relating to that
24 qualified equity investment for each applicable credit allowance date.

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

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

30 “285C.650. (1) A qualified community development entity that seeks to

1 have an equity investment or long-term debt security certified as a qualified
2 equity investment and eligible for a tax credit under ORS 315.533 shall apply
3 to the Oregon Business Development Department. The department shall es-
4 tablish by rule application procedures for applications for certification. The
5 entity must submit an application on a form that the department provides
6 that includes:

7 “(a) The entity’s name, address, tax identification number and evidence
8 of the entity’s certification as a qualified community development entity.

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

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

15 “(d) A description of the proposed purchase price, structure and purchaser
16 of the equity investment or long-term debt security.

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

20 “(f) Information regarding the proposed use of proceeds from the issuance
21 of the qualified equity investment.

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

24 “(2) Within 15 days after receipt of a completed application containing the
25 information necessary for the department to certify a proposed equity in-
26 vestment, including the payment of the application fee, the department shall
27 grant or deny the application in full or in part. If the department denies any
28 part of the application, the department shall inform the qualified community
29 development entity of the grounds for the denial. If the qualified community
30 development entity provides any additional information required by the de-

1 partment or otherwise completes its application within 15 days after the no-
2 tice of denial, the application shall be considered completed as of the
3 original date of submission. If the qualified community development entity
4 fails to provide the information or complete its application within the 15-day
5 period, the application remains denied and must be resubmitted in full with
6 a new submission date.

7 “(3) If the application is deemed complete, the department shall certify the
8 proposed equity investment or long-term debt security as a qualified equity
9 investment and eligible for a tax credit under ORS 315.533, subject to the
10 limitations in ORS 315.536. The department shall provide written notice of
11 the certification to the qualified community development entity. The notice
12 shall include the names of those taxpayers who are eligible to utilize the
13 credits and their respective credit amounts. If the names of the persons or
14 entities that are eligible to utilize the credits change due to a transfer of a
15 qualified equity investment or a change in an allocation pursuant to ORS
16 315.536, the qualified community development entity shall notify the depart-
17 ment of the change.

18 “(4)(a) **Except as provided in paragraph (b) of this subsection**, within
19 60 days after receiving notice of certification, [*the*] a qualified community
20 development entity shall issue the qualified equity investment and receive
21 cash in the amount of the certified purchase price. The qualified community
22 development entity must provide the department with evidence of the receipt
23 of the cash investment within 10 business days after receipt.

24 “(b) **For a qualified equity investment described in ORS 285C.653 (2),**
25 **a qualified community development entity shall issue the qualified**
26 **equity investment during the period beginning July 1, 2012, and ending**
27 **60 days after receiving notice of certification. If the qualified equity**
28 **investment is issued prior to the submission of an application for**
29 **certification under this section, the qualified community development**
30 **entity must provide the department with evidence of the qualified eq-**

1 **uity investment and of receipt of the cash investment at the time of**
2 **application for certification.**

3 “(c) If [*the*] a qualified community development entity does not receive
4 the cash investment and issue the qualified equity investment [*within 60*
5 *days*] **on or before the 60th day** following receipt of the certification notice,
6 the certification shall lapse and the entity may not issue the qualified equity
7 investment without reapplying to the department for certification. A certif-
8 ication that lapses reverts to the department and may be reissued only in
9 accordance with the application process outlined in this section.

10 “(5) The department shall certify qualified equity investments in the order
11 applications are received by the department. Applications received on the
12 same day shall be deemed to have been received simultaneously. For appli-
13 cations received on the same day and deemed complete, the department shall
14 certify, consistent with remaining tax credit capacity, qualified equity in-
15 vestments in proportionate percentages based upon the ratio of the amount
16 of qualified equity investment requested in an application to the total
17 amount of qualified equity investments requested in all applications received
18 on the same day. If a pending request cannot be fully certified because of the
19 limitation in ORS 285C.653, the department shall certify the portion that may
20 be certified unless the qualified community development entity elects to
21 withdraw its request rather than receive partial credit.

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

24 “(7) The department shall establish by rule procedures to administer the
25 provisions of this section, including the allocation of tax credits issued for
26 qualified equity investments.

27 **“SECTION 3. The amendments to ORS 285C.650 and 315.533 by**
28 **sections 1 and 2 of this 2013 Act apply to qualified equity investments**
29 **made on or after July 1, 2012.**

30 **“SECTION 4.** ORS 731.854 is amended to read:

1 “731.854. (1) When by or pursuant to the laws of any other state or foreign
2 country any taxes, licenses and other fees, in the aggregate, and any fines,
3 penalties, deposit requirements or other material obligations, prohibitions
4 or restrictions are or would be imposed upon insurers domiciled in this state,
5 or upon the insurance producers or representatives of such insurers, which
6 are in excess of such taxes, licenses and other fees, in the aggregate, or
7 which are in excess of the fines, penalties, deposit requirements or other
8 obligations, prohibitions, or restrictions directly imposed upon similar
9 insurers, or upon the insurance producers or representatives of such insurers,
10 of such other state or country under the statutes of this state, so long as
11 such laws of such other state or country continue in force or are so applied,
12 the same taxes, licenses and other fees, in the aggregate, or fines, penalties
13 or deposit requirements or other material obligations, prohibitions, or re-
14 strictions of whatever kind shall be imposed by the Director of the Depart-
15 ment of Consumer and Business Services upon the insurers, or upon the
16 insurance producers or representatives of such insurers, of such other state
17 or country doing business or seeking to do business in this state. Any tax,
18 license or other fee or other obligation imposed by any city, county, or other
19 political subdivision or agency of such other state or country on insurers
20 domiciled in this state or their insurance producers or representatives shall
21 be deemed to be imposed by such state or country within the meaning of this
22 subsection.

23 “(2) Foreign reciprocal or interinsurance exchanges filing a consolidated
24 return for purposes of ORS chapter 317 shall prepare and file a separate in-
25 dividual retaliatory tax calculation. The excise tax for the consolidated
26 group shall be allocated for retaliatory tax purposes among the individual
27 foreign insurers writing Oregon premiums. The allocation, after excluding
28 the domestic share as determined by the Director of the Department of
29 Consumer and Business Services by rule, shall be in the proportion that the
30 premiums written in Oregon by a foreign insurer of the group bears to the

1 total premiums written in Oregon by all foreign insurers in the group writ-
2 ing premiums in Oregon.

3 “(3) This section does not apply as to personal income taxes, nor as to
4 local ad valorem taxes on real or personal property nor as to special purpose
5 obligations or assessments heretofore imposed by another state in connection
6 with particular classes of insurance, other than property insurance; except
7 that deductions, from premium taxes or other taxes otherwise payable, al-
8 lowed on account of real estate or personal property taxes paid shall be
9 taken into consideration by the director in determining the propriety and
10 extent of retaliatory action under this section.

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

13 “(5) For the purpose of applying this section to foreign and alien insurers,
14 the following specifically shall be treated as taxes imposed by this state:

15 “(a) The corporate excise tax imposed under ORS chapter 317, **without**
16 **taking into consideration the amount of any reduction due to the**
17 **credit allowed under ORS 315.533.**

18 “(b) The assessments imposed under ORS 731.804 made to support the
19 legislatively authorized budget of the Department of Consumer and Business
20 Services with respect to the functions of the department under the Insurance
21 Code.

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

24 **“SECTION 5. The amendments to ORS 731.854 by section 4 of this**
25 **2013 Act apply to tax years beginning on or after January 1, 2013.**

26 **“SECTION 6. This 2013 Act takes effect on the 91st day after the**
27 **date on which the 2013 regular session of the Seventy-seventh Legis-**
28 **lative Assembly adjourns sine die.”.**

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