

# Enrolled House Bill 2130

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

CHAPTER .....

AN ACT

Relating to exemptions for low income housing; creating new provisions; amending ORS 307.515, 307.517, 307.518, 307.519, 307.521, 307.541, 307.543, 307.545 and 307.547; repealing ORS 307.537; and prescribing an effective date.

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

**SECTION 1.** ORS 307.517 is amended to read:

307.517. (1) Property or a portion of the property *[that meets the following criteria shall be]* **is** exempt from taxation as provided *[in]* **under** ORS 307.515 to 307.523 **if:**

(a) The property **is:**

(A) *[Is]* Offered for rent; or

(B) *[Is]* Held for the purpose of developing low income rental housing, **for a period not exceeding a reasonable maximum period, if any, adopted by the governing body[.];**

(b) The property, if occupied, is occupied solely by low income persons[.];

(c) The required rent payment reflects the full value of the property tax exemption[.];

(d) The exemption has been approved as provided in ORS 307.523[.];

(e) The housing units on the property were constructed after the local governing body adopted the provisions of ORS 307.515 to 307.523[.]; **and**

**(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other criteria adopted by the governing body.**

**(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.**

*[2]* **(3)** For the purposes of subsection (1) of this section, a person that has only a leasehold interest in property is deemed to be a purchaser of that property if:

(a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

**SECTION 2.** ORS 307.518 is amended to read:

307.518. (1) Property or a portion of property *[that meets all of the following criteria]* is exempt from taxation as provided under ORS 307.515 to 307.523 **if:**

(a) **The property**, if unoccupied, *[the property]* **is:**

(A) *[Is]* Offered for rental solely as a residence for low income persons; or

(B) *[Is]* Held for the purpose of developing low income rental housing, **for a period not exceeding a reasonable maximum period, if any, adopted by the governing body**;

(b) **The property**, if occupied, *[the property]* is occupied solely as a residence for low income persons;

(c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before January 1, 2020;

(d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation or a religious corporation, both **terms** as defined in ORS 65.001;

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of the nonprofit corporation's annual income from residential rentals for purposes other than the acquisition, maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property; **and**

**(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other criteria adopted by the governing body.**

**(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.**

*[2]* (3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

*[3]* (4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS 307.515 to 307.523.

**SECTION 3.** ORS 307.515 is amended to read:

307.515. As used in ORS 307.515 to 307.523:

(1) "Governing body" means the city or county legislative body having jurisdiction over the property for which an exemption may be applied for under ORS 307.515 to 307.523.

(2) "Lender" means the provider of a loan secured by the recorded deed of trust or recorded mortgage made to finance the purchase, construction or rehabilitation of a property used for low income housing under the criteria listed in **or adopted under** ORS 307.517 or 307.518.

(3) "Low income" means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

**SECTION 4.** ORS 307.519 is amended to read:

307.519. (1) Except as provided in subsection (2) of this section, the exemptions *[provided by]* **granted under** ORS 307.515 to 307.523 **apply** only *[apply]* to the tax levy of a governing body that adopts the provisions of ORS 307.515 to 307.523.

(2) The exemptions *[provided by]* **granted under** ORS 307.515 to 307.523 *[shall]* apply to the tax levy of all taxing districts in which property certified for exemption is located *[when]* **if**, upon request of a governing body that has adopted the provisions of ORS 307.515 to 307.523, the rates of taxation of such taxing districts whose governing boards agree to the policy of exemption under ORS 307.515 to 307.523, when combined with the rate of taxation of the governing body that adopts the provisions of ORS 307.515 to 307.523, equal 51 percent or more of the total combined rate of taxation on the property *[certified for]* **granted** exemption.

**(3) A governing body may adopt additional provisions relating to the exemption granted under ORS 307.515 to 307.523 that do not conflict with the provisions of ORS 307.515 to 307.523.**

**SECTION 5.** ORS 307.521 is amended to read:

307.521. (1) *[To qualify for an exemption provided by ORS 307.515 to 307.523, the person shall]* **A person seeking the exemption granted under ORS 307.515 to 307.523 must** file an application for exemption with the governing body. The exemption, **if granted**, shall be for a period of 20 years.

**(2)** The application *[shall]* **must** be filed as set forth in ORS 307.523. *[The application shall]* **and must** include the following information, *[if]* **as** applicable:

(a) A description of the property or a portion of the property for which the exemption is requested;

(b) A description of the purpose of the project and whether all or a portion of the property is being used for that purpose;

(c) A certification of income levels of low income occupants;

(d) A description of how the tax exemption will benefit project residents;

(e) If the exemption is an exemption described *[under]* **in** ORS 307.518, evidence satisfactory to the governing body that the corporation is a nonprofit **corporation** and meets the criteria for a public benefit corporation or a religious corporation; *[and]*

(f) A description of the plans for development of the property if the property is being held for future low income rental housing development; **and**

**(g) A description of how the applicant and the property, respectively, meet any additional criteria adopted by the governing body pursuant to ORS 307.517 (2) or 307.518 (2).**

*[(2)]* **(3)** The applicant shall verify the information in the application by oath or affirmation.

*[(3)]* **(4)(a)** Prior to accepting an application under ORS 307.515 to 307.523, a local jurisdiction shall adopt standards and guidelines *[to be utilized in considering applications and making determinations required by ORS 307.515 to 307.537. The standards and guidelines shall establish policy governing basic requirements for approving an application]* **to establish the policies governing the consideration of applications under ORS 307.515 to 307.523.**

**(b)** Policies considered may include, but are not limited to:

*[(a)]* **(A)** Rent regulatory agreements or other enforcement mechanisms to demonstrate that the required rent payment reflects the full value of the property tax exemption.

*[(b)]* **(B)** Enforcement mechanisms to ensure that housing that is exempt under ORS 307.515 to 307.523 is maintained in decent, safe and sanitary conditions for the occupants.

*[(c)]* **(C)** Methodology and timing for submitting evidence of use of rentals received from low income persons.

**SECTION 6. ORS 307.537 is repealed.**

**SECTION 7.** ORS 307.541 is amended to read:

307.541. (1) *[Property that meets all of the following criteria shall be]* **Property is** exempt from taxation as provided *[in]* **under** ORS 307.540 to 307.548 **if:**

(a) The property is owned or being purchased by a corporation *[that is exempt from income taxes under]* **described in** section 501(c)(3) or (4) of the Internal Revenue Code, *[as amended before December 1, 1984]* **that is exempt from income taxation under section 501(a) of the Internal Revenue Code**.];

(b) Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.];

(c) The property is:

(A) Occupied by low income persons; or

(B) Held for *[future development as low income housing]* **the purpose of developing low income housing, for a period not exceeding a reasonable maximum period, if any, adopted by the governing body**.];

(d) The property or portion of the property receiving the exemption, if occupied, is actually and exclusively used for the purposes described in section 501(c)(3) or (4) of the Internal Revenue Code[, *as amended before December 1, 1984.*];

(e) The exemption has been approved as provided in ORS 307.547[.]; **and**

**(f) The information disclosed on the application filed pursuant to ORS 307.545 meets any other criteria adopted by the governing body.**

**(2) A governing body that adopts the provisions of ORS 307.540 to 307.548 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.**

[2] (3) For the purposes of subsection (1) of this section, a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:

(a) The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or

(b) The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

[3] (4) A partnership shall be treated the same as a corporation to which this section applies if the corporation is:

(a) A general partner of the partnership; and

(b) Responsible for the day-to-day operation of the property that is the subject of the exemption.

**SECTION 8.** ORS 307.543 is amended to read:

307.543. (1) Except as provided in subsection (2) of this section, the exemption [*provided by ORS 307.541 only applies*] **granted under ORS 307.540 to 307.548 applies only** to the tax levy of a governing body that adopts the provisions of ORS 307.540 to 307.548.

(2) The exemption [*provided by ORS 307.541*] **granted under ORS 307.540 to 307.548** [*shall*] apply to the tax levy of all taxing districts in which property certified for exemption is located [*when*] **if**, upon request of a governing body that has adopted the provisions of ORS 307.540 to 307.548, the rates of taxation of such taxing districts whose governing boards agree to the policy of exemption under ORS 307.540 to 307.548, when combined with the rate of taxation of the governing body that adopts the provisions of ORS 307.540 to 307.548, equal 51 percent or more of the total combined rate of taxation on the property [*certified for limited assessment*] **granted exemption.**

**(3) A governing body may adopt additional provisions relating to the exemption granted under ORS 307.540 to 307.548 that do not conflict with the provisions of ORS 307.540 to 307.548.**

**SECTION 9.** ORS 307.545 is amended to read:

307.545. (1) [*To qualify for the exemption provided by ORS 307.541, the corporation shall*] **A corporation seeking the exemption granted under ORS 307.540 to 307.548 must** file an application for exemption with the governing body for each assessment year the corporation wants the exemption. The application [*shall*] **must** be filed on or before March 1 of the assessment year for which the exemption is sought, except that when the property designated is acquired after March 1 and before July 1, the application for that year [*shall*] **must** be filed within 30 days after the date of acquisition.

(2) The application [*shall*] **must** include the following information, as applicable:

(a) A description of the property for which the exemption is requested;

(b) A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;

(c) A certification of income levels of low income occupants;

(d) A description of how the tax exemption will benefit project residents;

(e) A description of the development of the property if the property is being held for future low income housing development; [*and*]

(f) A declaration that the corporation has been granted [*an*] exemption from income [*taxes under*] **taxation under section 501(a) of the Internal Revenue Code as an organization de-**

scribed in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code[, as amended before December 1, 1984.]; and

(g) A description of how the corporation and the property, respectively, meet any additional criteria adopted by the governing body pursuant to ORS 307.541 (2).

[(2)] (3) The applicant shall verify the information in the application by oath or affirmation.

**SECTION 10.** ORS 307.547 is amended to read:

307.547. (1) Within 30 days of the filing of an application under ORS 307.545, the governing body shall determine whether the applicant qualifies for the exemption [under ORS 307.541] **granted under ORS 307.540 to 307.548.**

(2)(a) If the governing body determines that the applicant qualifies, the governing body shall certify to the assessor of the county where the real property is located, as set forth in ORS 307.512, that all or a portion of the property is exempt from taxation under the levy of the certifying governing body.

(b) Notwithstanding paragraph (a) of this subsection, the governing body may send the certification required under this subsection on or before the deadline specified in ORS 307.512, or as promptly as practicable after making the determination under subsection (1) of this section, whichever is later.

(3) Upon receipt of certification sent pursuant to subsection (2) of this section, the county assessor shall exempt the property from taxation to the extent certified by the governing body.

**SECTION 11. Additional criteria for exemption and additional provisions relating to the exemption adopted by a governing body pursuant to the amendments to statutes by sections 1 to 5 and 7 to 10 of this 2015 Act apply to exemptions granted pursuant to applications filed:**

(1) On or after the date on which the additional criteria for exemption or additional provisions relating to the exemption, respectively, become effective; and

(2) On or after effective date of this 2015 Act.

**SECTION 12. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

Passed by House May 12, 2015

.....  
Timothy G. Sekerak, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

Passed by Senate June 2, 2015

.....  
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

.....  
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

.....  
Jeanne P. Atkins, Secretary of State