

# House Bill 3065

Sponsored by Representative JOHNSON

## 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**.

Directs State Department of Energy to approve energy efficiency rating system for use by certain applicants seeking tax credit certification. Establishes criteria for department approval of rating system.

Applies to applications for preliminary certification for energy conservation tax credits filed after January 1, 2016.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to energy efficiency rating systems for energy conservation projects; creating new pro-  
3 visions; amending ORS 315.331; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.331 is amended to read:

6 315.331. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the  
7 taxpayer is a corporation, under ORS chapter 317 or 318, for an energy conservation project that  
8 is certified under ORS 469B.270 to 469B.306. The credit is allowed as follows:

9 (a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first  
10 two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility,  
11 but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding  
12 three years shall be five percent of the certified cost, but may not exceed the tax liability of the  
13 taxpayer.

14 (b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit  
15 allowable under subsection [(3)] (4) of this section may be claimed in the first tax year for which  
16 the credit may be claimed, but may not exceed the tax liability of the taxpayer.

17 (2) In order for a tax credit to be allowable under this section:

18 (a) The project must be located in Oregon.

19 (b) The project must have received final certification from the Director of the State Department  
20 of Energy under ORS 469B.270 to 469B.306.

21 (c) If the project is a research and development project, it must receive, prior to certification  
22 under ORS 469B.288, a recommendation from a qualified third party selected by the director.

23 (d) If the project is new construction or a total building retrofit, then the project must achieve,  
24 at a minimum, *[the]* energy efficiency standards *[required for]* **approved by the State Department  
25 of Energy as provided under subsection (3) of this section.**

26 **(3) The State Department of Energy shall approve energy efficiency standards for use  
27 under subsection (2)(d) of this section by creating its own energy efficiency rating system,  
28 by recognizing one or more commonly used energy efficiency rating systems, or both. If the  
29 department proposes to create or recognize a rating system, the department shall consider**

**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 **whether the energy efficiency standards of the rating system are:**

2 **(a) Eligible under the certifications given to forest products grown, manufactured and**  
3 **certified under the Sustainable Forestry Initiative, the Forest Stewardship Council and the**  
4 **American Tree Farm System systems; and**

5 **(b) Comparable to the energy efficiency standards used for:**

6 (A) LEED Platinum certification;

7 (B) A four globes rating from the Green Globes program;

8 (C) A nationally or regionally recognized and appropriate sustainable building program *[whose*  
9 *performance standards are equivalent to the standards required for LEED Platinum certification or a*  
10 *four globes rating from the Green Globes program, as determined by the department]*; or

11 (D) *[Verification that the construction conformed to the standards of]* The Reach Code adopted  
12 pursuant to ORS 455.500.

13 [(3)] (4) The total amount of credit allowable to an eligible taxpayer under this section may not  
14 exceed 35 percent of the certified cost of the project.

15 [(4)(a)] (5)(a) Upon any sale, termination of the lease or contract, exchange or other disposition  
16 of the project, notice thereof shall be given to the director, who shall revoke the certificate covering  
17 the project as of the date of such disposition.

18 (b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new certificate  
19 under ORS 469B.291. The new lessee or owner must meet the requirements of ORS 469B.270 to  
20 469B.306 and may claim a tax credit under this section only if all moneys owed by the new owner  
21 or lessee to the State of Oregon have been paid, if the project continues to operate and if all con-  
22 ditions in the final certification are met. The tax credit available to the new owner shall be limited  
23 to the amount of credit not claimed by the former owner or, for a new lessee, the amount of credit  
24 not claimed by the lessee under all previous leases. The State Department of Energy may waive the  
25 requirement that a new owner or lessee apply for a new certificate under ORS 469B.291 if the re-  
26 maining credit is less than \$20,000.

27 (c) The department may not revoke the certificate covering a project under paragraph (a) of this  
28 subsection if the tax credit associated with the project has been transferred to a taxpayer who is  
29 an eligible applicant under ORS 469B.285.

30 [(5)] (6) The tax credit allowed under this section for any one tax year may not exceed the tax  
31 liability of the taxpayer.

32 [(6)] (7) Any tax credit otherwise allowable under this section that is not used by the taxpayer  
33 in a particular year may be carried forward and offset against the taxpayer's tax liability for the  
34 next succeeding tax year. Any credit remaining unused in that next succeeding tax year may be  
35 carried forward and used in the second succeeding tax year, and likewise, any credit not used in  
36 that second succeeding tax year may be carried forward and used in the third succeeding tax year,  
37 and likewise, any credit not used in that third succeeding tax year may be carried forward and used  
38 in the fourth succeeding tax year, and likewise, any credit not used in that fourth succeeding tax  
39 year may be carried forward and used in the fifth succeeding tax year, but may not be carried for-  
40 ward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond  
41 the years specified in subsection (1) of this section only as provided in this subsection.

42 [(7)] (8) The credit allowed under this section is not in lieu of any depreciation or amortization  
43 deduction for the project to which the taxpayer otherwise may be entitled for purposes of ORS  
44 chapter 316, 317 or 318 for such year.

45 [(8)] (9) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any

1 tax credits allowed under this section.

2 [(9)] (10) The definitions in ORS 469B.270 apply to this section.

3 **SECTION 2. The amendments to ORS 315.331 by section 1 of this 2015 Act apply to ap-**  
4 **plications for preliminary certification under ORS 469B.285 filed after January 1, 2016.**

5 **SECTION 3. This 2015 Act takes effect on the 91st day after the date on which the 2015**  
6 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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