

House Bill 3353

Sponsored by Representative EVANS

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**.

Authorizes local governments to adopt additional criteria encouraging energy efficiency and energy generation on property granted certain exemptions from ad valorem property taxation.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to energy-related improvements; creating new provisions; and amending ORS 307.515,
3 307.517, 307.518, 307.521, 307.541, 307.545, 307.606 and 307.857; and prescribing an effective date.

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

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

6 307.517. (1) Property or a portion of the property [*that meets the following criteria shall be*] **is**
7 exempt from taxation as provided [*in*] **under** ORS 307.515 to 307.523 **if:**

8 (a) The property **is:**

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

10 (B) [*Is*] Held for the purpose of developing low income rental housing [.]

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

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

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

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

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

18 (2) **A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt ad-**
19 **ditional criteria for exemption that encourage energy efficiency and energy generation on the**
20 **property provided the criteria do not conflict with the criteria described in subsection (1)(a)**
21 **to (e) of this section.**

22 [(2)] (3) For the purposes of subsection (1) of this section, a person that has only a leasehold
23 interest in property is deemed to be a purchaser of that property if:

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

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

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

29 307.518. (1) Property or a portion of property [*that meets all of the following criteria*] is exempt
30 from taxation as provided under ORS 307.515 to 307.523 **if:**

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

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

2 (B) [Is] Held for the purpose of developing low income rental housing [.] ;

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

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

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

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

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

16 **(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt ad-**
17 **ditional criteria for exemption that encourage energy efficiency and energy generation on the**
18 **property provided the criteria do not conflict with the criteria described in subsection (1)(a)**
19 **to (e) of this section.**

20 [(2)] (3) For the purposes of this section, a nonprofit corporation that has only a leasehold in-
21 terest in property is considered to be a purchaser of that property if:

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

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

26 [(3)] (4) A partnership shall be considered a nonprofit corporation for purposes of this section
27 if:

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

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

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

32 307.515. As used in ORS 307.515 to 307.523:

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

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

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

41 **SECTION 4.** ORS 307.521 is amended to read:

42 307.521. (1) [*To qualify for an exemption provided by ORS 307.515 to 307.523, the person shall*]
43 **A person seeking the exemption granted under ORS 307.515 to 307.523 must** file an application
44 for exemption with the governing body. The exemption, **if granted**, shall be for a period of 20 years.

45 **(2) The application [shall] must** be filed as set forth in ORS 307.523[. *The application shall*] **and**

1 **must** include the following information, [if] **as** applicable:

2 (a) A description of the property or a portion of the property for which the exemption is re-
3 quired;

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

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

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

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

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

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

15 [(2)] (3) The applicant shall verify the information in the application by oath or affirmation.

16 [(3)] (4)(a) Prior to accepting an application under ORS 307.515 to 307.523, a local jurisdiction
17 shall adopt standards and guidelines [to be utilized in considering applications and making determi-
18 nations required by ORS 307.515 to 307.537. The standards and guidelines shall establish policy gov-
19 erning basic requirements for approving an application] **to establish the policies governing the**
20 **consideration of applications under ORS 307.515 to 307.523.**

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

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

24 [(b)] **(B)** Enforcement mechanisms to ensure that housing that is exempt under ORS 307.515 to
25 307.523 is maintained in decent, safe and sanitary conditions for the occupants.

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

28 **SECTION 5.** ORS 307.541 is amended to read:

29 307.541. (1) [Property that meets all of the following criteria shall be] **Property is** exempt from
30 taxation as provided [in] **under** ORS 307.540 to 307.548 **if:**

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

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

39 (c) The property is:

40 (A) Occupied by low income persons; or

41 (B) Held for future development as low income housing[.];

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

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

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

3 (2) A governing body that adopts the provisions of ORS 307.540 to 307.548 may adopt ad-
 4 ditional criteria for exemption that encourage energy efficiency and energy generation on the
 5 property provided the criteria do not conflict with the criteria described in subsection (1)(a)
 6 to (e) of this section.

7 [(2)] (3) For the purposes of subsection (1) of this section, a corporation that has only a
 8 leasehold interest in property is deemed to be a purchaser of that property if:

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

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

13 [(3)] (4) A partnership shall be treated the same as a corporation to which this section applies
 14 if the corporation is:

15 (a) A general partner of the partnership; and

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

17 **SECTION 6.** ORS 307.545 is amended to read:

18 307.545. (1) *[To qualify for the exemption provided by ORS 307.541, the corporation shall]* **A cor-**
 19 **poration seeking the exemption granted under ORS 307.540 to 307.548 must** file an application
 20 for exemption with the governing body for each assessment year the corporation wants the ex-
 21 emption. The application *[shall]* **must** be filed on or before March 1 of the assessment year for
 22 which the exemption is sought, except that when the property designated is acquired after March
 23 1 and before July 1, the application for that year *[shall]* **must** be filed within 30 days after the date
 24 of acquisition.

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

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

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

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

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

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

33 (f) A declaration that the corporation has been granted *[an]* exemption from income *[taxes*
 34 *under]* **taxation under section 501(a) of the Internal Revenue Code as an organization de-**
 35 **scribed in** section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, *as amended before December*
 36 *1, 1984.]; and*

37 (g) **A description of how the corporation and the property, as applicable, meet any addi-**
 38 **tional criteria adopted by the governing body pursuant to ORS 307.541 (2).**

39 [(2)] (3) The applicant shall verify the information in the application by oath or affirmation.

40 **SECTION 7.** ORS 307.606 is amended to read:

41 307.606. (1) ORS 307.600 to 307.637 apply to multiple-unit housing preserved, constructed, estab-
 42 lished, added to or converted in cities or counties that adopt, after a public hearing and determi-
 43 nation pursuant to subsection (3) of this section, by resolution or ordinance, the provisions of ORS
 44 307.600 to 307.637. The tax exemption provided by ORS 307.600 to 307.637 only applies to the tax
 45 levy of a city or county that adopts the provisions of ORS 307.600 to 307.637, except that the tax

1 exemption shall apply to the ad valorem property taxes of all taxing districts when upon request of
 2 the city or county that has adopted the provisions of ORS 307.600 to 307.637, the rates of ad valorem
 3 taxation of taxing districts whose governing boards agree by resolution to the policy of providing
 4 tax exemptions for multiple-unit housing as provided in ORS 307.600 to 307.637, when combined with
 5 the rate of taxation of the city or county that adopts the provisions of ORS 307.600 to 307.637, equal
 6 51 percent or more of the total combined rate of taxation levied on the property which is tax exempt
 7 under ORS 307.600 to 307.637.

8 (2) The city or county shall designate an area within which it proposes to allow exemptions
 9 provided for under the provisions of ORS 307.600 to 307.637. Core areas, light rail station areas or
 10 transit oriented areas may be designated by a city. A city may designate the entire city as the area
 11 in which the city proposes to allow exemptions under ORS 307.600 to 307.637 for housing that is or
 12 becomes subject to a low income housing assistance contract with an agency or subdivision of this
 13 state or the United States. A county may designate areas as light rail station areas or transit ori-
 14 ented areas but may not designate areas as core areas. A county may designate the entire county
 15 as the area in which the county proposes to allow exemptions under ORS 307.600 to 307.637 for
 16 housing that is or becomes subject to a low income housing assistance contract with an agency or
 17 subdivision of this state or the United States. A city or county from time to time may, by amending
 18 its resolution or ordinance, add or withdraw territory from the area originally designated as a light
 19 rail station area or a transit oriented area, but any area added must be within the boundaries of the
 20 area as limited by ORS 307.603 (3) or (6).

21 (3) The city or county shall, prior to passage of a resolution or ordinance electing to utilize the
 22 provisions of ORS 307.600 to 307.637, hold a public hearing in order to determine whether multiple-
 23 unit housing meeting the qualifications of subsection (4) of this section would not otherwise be built
 24 in the designated area or preserved without the benefits provided by ORS 307.600 to 307.637.

25 (4) Prior to accepting project applications under ORS 307.600 to 307.637, cities or counties shall
 26 promulgate standards and guidelines to be utilized in considering applications and making the de-
 27 terminations required by ORS 307.618. The standards and guidelines shall establish policy governing
 28 basic requirements for an application, including but not limited to:

29 (a) Existing utilization of proposed project site, including justification of the elimination of any
 30 existing sound or rehabilitable housing.

31 (b) Design elements, **including elements that encourage energy efficiency and energy gen-
 32 eration.**

33 (c) Rental rates or sales prices.

34 (d) Extensions of public benefits from the project beyond the period of the exemption.

35 (e) Minimum number of units.

36 (f) For housing that is or becomes subject to a low income housing assistance contract with an
 37 agency or subdivision of this state or the United States, a demonstration that the exemption is
 38 necessary to preserve or establish the low income units.

39 (g) For housing that is to become subject to a low income housing assistance contract with an
 40 agency or subdivision of this state or the United States, the date on which the housing must be es-
 41 tablished in order to be exempt under ORS 307.600 to 307.637.

42 **SECTION 8. Section 9 of this 2015 Act is added to and made a part of ORS 307.841 to
 43 307.867.**

44 **SECTION 9. A city or county in which a vertical housing development zone has been
 45 approved under ORS 307.847 may adopt additional criteria for approval of an application un-**

1 **der ORS 307.857 that encourage energy efficiency and energy generation on property granted**
 2 **partial exemption under ORS 307.864.**

3 **SECTION 10.** ORS 307.857 is amended to read:

4 307.857. (1) Following the designation of a vertical housing development zone under ORS 307.847,
 5 a person proposing to undertake a proposed vertical housing development project and seeking the
 6 partial property tax exemption set forth in ORS 307.864 shall apply to the Housing and Community
 7 Services Department for certification of the project.

8 (2) The application must be satisfactory to the department in form and content and shall contain
 9 any information required by the department, including all of the following:

10 (a) The address and boundaries of the proposed vertical housing development project;

11 (b) A description of the existing state of the property;

12 (c) A description of the proposed project construction or rehabilitation, including the design of
 13 the construction or rehabilitation, the cost of the construction or rehabilitation and the number of
 14 floors and residential units to be constructed or rehabilitated;

15 (d) A description of the nonresidential uses to which any portion of the proposed project is to
 16 be put, including the proportion of total square footage of the project proposed for nonresidential
 17 uses;

18 (e) A description of the proposed portion of the project to be used for residential uses, including
 19 the proportion of total square footage of the project proposed for residential uses;

20 (f) A description of the number and nature of residential units in the proposed project that are
 21 to be low income residential housing, including the proportion of total square footage of the project
 22 proposed for low income residential housing uses;

23 (g) The calculation and allocations described under subsection (3) of this section; *[and]*

24 (h) A commitment that is satisfactory to the department, including documentation and evidence
 25 of recording of the documentation, that the project will be maintained and operated in a manner
 26 consistent with the application submitted under this section for the duration of the commitment. The
 27 duration of the commitment may not be less than the number of tax years for which the project is
 28 intended to be partially exempt from ad valorem property taxes under ORS 307.864; **and**

29 **(i) A description of how the applicant and the property, as applicable, meet any additional**
 30 **criteria adopted by the city or county pursuant to section 9 of this 2015 Act.**

31 (3)(a) Each application filed under this section shall contain a calculation of equalized floors,
 32 an allocation of equalized floors to residential uses and an allocation of equalized floors to low in-
 33 come residential housing uses as determined under this subsection.

34 (b) An equalized floor is the quotient that results from the division of total square footage of a
 35 project by the number of actual floors of the project that are at least 500 square feet per floor, or
 36 as may be increased or otherwise qualified by the department by rule.

37 (c) To allocate equalized floors to residential uses, divide the total square footage of residential
 38 property in the project by the square footage of an equalized floor.

39 (d) To allocate equalized floors to low income residential housing use, divide the total square
 40 footage of low income residential housing property in the project by the square footage of an
 41 equalized floor. In determining the square footage of low income residential housing property, in-
 42 clude that proportion of the square footage of residential common space that is the same as the
 43 proportion of the total square footage of low income residential housing units to the total square
 44 footage of all residential housing units.

45 (4) The application must be filed under this section on or before the date residential units that

1 are a part of the vertical housing development project are ready for occupancy.

2 (5) The department shall review each application submitted under this section and shall certify
3 or deny certification based on whether the proposed vertical housing development project meets
4 criteria established by the department by rule that are consistent with ORS 307.841 to 307.867.

5 (6) The department may request any documentation or undertake any investigation necessary
6 to ascertain the veracity of any statement made on an application under this section.

7 (7) The certification issued by the department shall:

8 (a) Identify the property included in the certified vertical housing development project;

9 (b) Identify the number of equalized floors of residential housing in the project and include a
10 description of the property of each equalized floor;

11 (c) Identify the number of equalized floors of low income residential housing in the project and
12 include a description of the property of each equalized floor; and

13 (d) Contain any other information prescribed by the department.

14 (8) The determination of the department to certify or deny certification is a discretionary de-
15 termination. The determination is final and is not subject to judicial or administrative review.

16 (9) The department may charge appropriate fees to offset the cost of administering the applica-
17 tion and certification process under this section and any other related costs.

18 **SECTION 11. Section 9 of this 2015 Act and the amendments to ORS 307.515, 307.517,
19 307.518, 307.521, 307.541, 307.545, 307.606 and 307.857 by sections 1 to 7 and 10 of this 2015 Act
20 apply to exemptions granted pursuant to applications filed:**

21 **(1) On or after the date on which additional criteria adopted pursuant to this 2015 Act
22 become effective; and**

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

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

26