

A-Engrossed
Senate Bill 1533

Ordered by the Senate February 12
Including Senate Amendments dated February 12

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Workforce and General Government)

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.

Permits [*local governments*] **certain cities and counties** to adopt land use regulations or functional plan provisions, or impose conditions for approval of permits, that effectively establish sales or rental price for up to [30] **20** percent of [*new residential development*] **multifamily structure** or limit sales or rental purchase to class or group of purchasers or renters in exchange for one or more developer incentives.

Creates new authority for local government, local service district or special government body to impose construction taxes, at rate not exceeding one percent of permit valuation, on improvements to residential, commercial and industrial real property that result in new structure or additional square footage in existing structure, including remodeling that adds living space. Requires local government, local service district or special government body to use construction tax revenue to fund developer incentives and programs related to needed housing, and to distribute construction tax revenue to Housing and Community Services Department to fund home ownership programs.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to affordable housing; creating new provisions; amending ORS 197.309, 320.170, 320.176 and
3 320.186 and section 1, chapter 829, Oregon Laws 2007; repealing section 9, chapter 829, Oregon
4 Laws 2007; and prescribing an effective date.

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

6 **SECTION 1.** ORS 197.309 is amended to read:

7 197.309. (1) **As used in this section, "multifamily structure" means a structure situated**
8 **on a single lot or parcel that contains three or more housing units sharing at least one wall,**
9 **floor or ceiling surface in common with another unit within the same structure.**

10 [(1)] (2) Except as provided in subsection [(2)] (3) of this section, a [*city, county or*] metropolitan
11 service district may not adopt a land use regulation or functional plan provision, or impose as a
12 condition for approving a permit under ORS 215.427 or 227.178[,] a requirement, that has the effect
13 of establishing the sales **or rental** price for a housing unit or residential building lot or parcel, or
14 that requires a housing unit or residential building lot or parcel to be designated for sale **or rent**
15 to [*any*] a particular class or group of purchasers **or renters**.

16 [(2)] (3) [*This*] **The provisions of subsection (2) of this section [does] do** not limit the authority
17 of a [*city, county or*] metropolitan service district to:

18 (a) Adopt or enforce a [*land*] use regulation, [*functional plan*] provision or [*condition of*
19 *approval*] **requirement** creating or implementing an incentive, contract commitment, density bonus
20 or other voluntary regulation, provision or [*condition*] **requirement** designed to increase the supply

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 of moderate or lower cost housing units; or

2 (b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

3 (4) **Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or**
4 **functional plan provision, or impose as a condition for approving a permit under ORS 215.427**
5 **or 227.178 a requirement, that has the effect of establishing the sales or rental price for a**
6 **multifamily structure, or that requires a multifamily structure to be designated for sale or**
7 **rent to a particular class or group of purchasers or renters based on income.**

8 (5) **A regulation, provision or requirement adopted under subsection (4) of this section:**

9 (a) **May not require more than 20 percent of housing units within a multifamily structure**
10 **to be sold or rented at below-market rates;**

11 (b) **May apply only to multifamily structures containing at least 10 housing units in cities**
12 **or counties with a population of 600,000 or less;**

13 (c) **May apply only to multifamily structures containing at least 20 housing units in cities**
14 **or counties with a population greater than 600,000;**

15 (d) **Must offer developers payment of an in-lieu fee in exchange for providing the requisite**
16 **number of housing units within the multifamily structure to be sold or rented at below-**
17 **market rates; and**

18 (e) **Must offer developers one or more of the following incentives:**

19 (A) **Density adjustments.**

20 (B) **Fee waivers or reductions.**

21 (C) **Expedited service for local permitting processes.**

22 (D) **Waivers of system development charges or impact fees.**

23 (E) **Finance-based incentives.**

24 (F) **Modification of height, floor area or other site-specific requirements.**

25 (G) **State-authorized property tax exemptions or abatements.**

26 (6)(a) **A city or county that adopts a regulation, provision or requirement described in**
27 **subsections (4) and (5) of this section may not apply the regulation, provision or requirement**
28 **to any multifamily structure for which a complete application for a permit, as defined by**
29 **ORS 227.160, has been submitted to the city or county prior to the date of adoption of the**
30 **regulation, provision or requirement.**

31 (b) **For a multifamily structure that meets the requirements of paragraph (a) of this**
32 **subsection:**

33 (A) **Construction shall commence, and building and occupancy permits as required by the**
34 **city or county shall be issued, within two years of the date of adoption of the regulation,**
35 **provision or requirement; or**

36 (B) **A complete application for a permit, as defined by ORS 227.160, under the regulation,**
37 **provision or requirement adopted by the city or county under subsections (4) and (5) of this**
38 **section shall be resubmitted.**

39 **SECTION 2.** ORS 320.170 is amended to read:

40 320.170. (1) [*Construction taxes may be imposed by*] A school district, as defined in ORS 330.005,
41 **may impose a construction tax only** in accordance with ORS 320.170 to 320.189.

42 (2) Construction taxes imposed by a school district must be collected, subject to ORS 320.179,
43 by a local government, local service district, special government body, state agency or state official
44 that issues a permit for structural improvements regulated by the state building code.

45 **SECTION 3.** Section 1, chapter 829, Oregon Laws 2007, is added to and made a part of

1 **ORS 320.170 to 320.189.**

2 **SECTION 4.** Section 1, chapter 829, Oregon Laws 2007, is amended to read:

3 **Sec. 1.** (1) A local government or local service district, as defined in ORS 174.116, or a special
4 government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing
5 improvements to real property except as provided in *[sections 2 to 8 of this 2007 Act]* **ORS 320.170**
6 **to 320.189.**

7 (2) Subsection (1) of this section does not apply to:

8 (a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax,
9 provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;

10 (b) A tax on which a public hearing was held before May 1, 2007; or

11 (c) The amendment or increase of a tax adopted by a county for transportation purposes prior
12 to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

13 (3) For purposes of *[this section and sections 2 to 8 of this 2007 Act]* **ORS 320.170 to 320.189**,
14 construction taxes are limited to privilege taxes imposed under *[sections 2 to 8 of this 2007 Act]* **ORS**
15 **320.170 to 320.189** and do not include any other financial obligations such as building permit fees,
16 financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or
17 financial obligations imposed on the basis of factors such as income.

18 **SECTION 5.** ORS 320.176 is amended to read:

19 320.176. (1) Construction taxes imposed *[under ORS 320.170 to 320.189]* **by a school district**
20 **pursuant to ORS 320.170** may be imposed only on improvements to real property that result in a
21 new structure or additional square footage in an existing structure and may not exceed:

22 (a) \$1 per square foot on structures or portions of structures intended for residential use, in-
23 cluding but not limited to single-unit or multiple-unit housing; and

24 (b) \$0.50 per square foot on structures or portions of structures intended for nonresidential use,
25 not including multiple-unit housing of any kind.

26 (2) In addition to the limitations under subsection (1) of this section, a construction tax imposed
27 on structures intended for nonresidential use may not exceed \$25,000 per building permit or \$25,000
28 per structure, whichever is less.

29 (3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and
30 (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations
31 set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction
32 cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged
33 monthly construction cost index for the 12-month period ending June 30, 2008.

34 (b) The Department of Revenue shall determine the adjusted limitations under this section and
35 shall report those limitations to entities imposing construction taxes. The department shall round
36 the adjusted limitation under subsection (2) of this section to the nearest multiple of \$100.

37 (c) As used in this subsection, "construction cost index" means the Engineering News-Record
38 Construction Cost Index, or a similar nationally recognized index of construction costs as identified
39 by the department by rule.

40 **SECTION 6.** ORS 320.186 is amended to read:

41 320.186. A school district may pledge construction taxes **imposed pursuant to ORS 320.170** to
42 the payment of obligations issued to finance or refinance capital improvements as defined in ORS
43 320.183.

44 **SECTION 7. Sections 8 and 9 of this 2016 Act are added to and made a part of ORS 320.170**
45 **to 320.189.**

1 **SECTION 8.** (1) The governing body of a local government or local service district, as
2 defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may impose
3 a construction tax by adoption of an ordinance or resolution that conforms to the require-
4 ments of this section and section 9 of this 2016 Act.

5 (2)(a) A tax may be imposed on improvements to residential real property that result in
6 a new structure or additional square footage in an existing structure, including remodeling
7 that adds living space.

8 (b) The ordinance or resolution shall state the rate of the tax. The tax may not exceed
9 one percent of the permit valuation.

10 (c) The tax shall be paid at the time specified in ORS 320.189 to the local government,
11 local service district or special government body that imposed the tax.

12 (3)(a) A tax may be imposed on improvements to commercial and industrial real property
13 that result in a new structure or additional square footage in an existing structure, including
14 remodeling that adds living space.

15 (b) The ordinance or resolution shall state the rate of the tax. The tax may not exceed
16 one percent of the permit valuation.

17 (c) The tax shall be paid at the time specified in ORS 320.189 to the local government,
18 local service district or special government body that imposed the tax.

19 **SECTION 9.** (1) As soon as practicable after the end of each fiscal quarter, a local gov-
20 ernment or local service district, as defined in ORS 174.116, or a special government body,
21 as defined in ORS 174.117, that imposes a construction tax pursuant to section 8 of this 2016
22 Act shall deposit the construction tax revenues collected in the fiscal quarter just ended in
23 the general fund of the local government, local service district or special government body.

24 (2) Of the revenues deposited pursuant to subsection (1) of this section, the local gov-
25 ernment, local service district or special government body may retain an amount not to ex-
26 ceed four percent as an administrative fee to recoup the expenses of the local government,
27 local service district or special government body incurred in complying with the require-
28 ments of this section.

29 (3) After deducting the administrative fee authorized under subsection (2) of this section
30 and paying any refunds, the local government, local service district or special government
31 body shall distribute the remaining revenues received under section 8 (2) of this 2016 Act as
32 follows:

33 (a) Eighty-five percent to fund developer incentives permitted under ORS 197.309 and
34 programs related to needed housing; and

35 (b) Fifteen percent to the Housing and Community Services Department to fund home
36 ownership programs that provide down payment assistance.

37 (4) After deducting the administrative fee authorized under subsection (2) of this section
38 and paying any refunds, the local government, local service district or special government
39 body shall distribute fifty percent of the remaining revenues received under section 8 (3) of
40 this 2016 Act to fund programs related to needed housing.

41 **SECTION 10.** Section 9, chapter 829, Oregon Laws 2007, is repealed.

42 **SECTION 11.** A city or county may not adopt a regulation, provision or requirement un-
43 der ORS 197.309, as amended by section 1 of this 2016 Act, until the 180th day after the ef-
44 fective date of this 2016 Act.

45 **SECTION 12.** This 2016 Act takes effect on the 91st day after the date on which the 2016

1 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

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