

SENATE AMENDMENTS TO SENATE BILL 1533

By COMMITTEE ON HUMAN SERVICES AND EARLY CHILDHOOD

February 12

1 In line 2 of the printed bill, after the semicolon insert “creating new provisions;” and after
2 “197.309” insert “, 320.170, 320.176 and 320.186 and section 1, chapter 829, Oregon Laws 2007; re-
3 pealing section 9, chapter 829, Oregon Laws 2007; and prescribing an effective date”.

4 Delete lines 4 through 28 and insert:

5 **“SECTION 1.** ORS 197.309 is amended to read:

6 **“197.309. (1) As used in this section, ‘multifamily structure’ means a structure situated**
7 **on a single lot or parcel that contains three or more housing units sharing at least one wall,**
8 **floor or ceiling surface in common with another unit within the same structure.**

9 **“[(1)] (2) Except as provided in subsection [(2)] (3) of this section, a [city, county or] metropolitan**
10 **service district may not adopt a land use regulation or functional plan provision, or impose as a**
11 **condition for approving a permit under ORS 215.427 or 227.178[,] a requirement, that has the effect**
12 **of establishing the sales or rental price for a housing unit or residential building lot or parcel, or**
13 **that requires a housing unit or residential building lot or parcel to be designated for sale or rent**
14 **to [any] a particular class or group of purchasers or renters.**

15 **“[(2)] (3) [This] The provisions of subsection (2) of this section [does] do not limit the au-**
16 **thority of a [city, county or] metropolitan service district to:**

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

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

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

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

28 **“(a) May not require more than 20 percent of housing units within a multifamily struc-**
29 **ture to be sold or rented at below-market rates;**

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

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

34 **“(d) Must offer developers payment of an in-lieu fee in exchange for providing the requi-**
35 **site number of housing units within the multifamily structure to be sold or rented at**

1 below-market rates; and

2 “(e) Must offer developers one or more of the following incentives:

3 “(A) Density adjustments.

4 “(B) Fee waivers or reductions.

5 “(C) Expedited service for local permitting processes.

6 “(D) Waivers of system development charges or impact fees.

7 “(E) Finance-based incentives.

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

9 “(G) State-authorized property tax exemptions or abatements.

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

15 “(b) For a multifamily structure that meets the requirements of paragraph (a) of this
16 subsection:

17 “(A) Construction shall commence, and building and occupancy permits as required by
18 the city or county shall be issued, within two years of the date of adoption of the regulation,
19 provision or requirement; or

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

23 “**SECTION 2.** ORS 320.170 is amended to read:

24 “320.170. (1) [*Construction taxes may be imposed by*] A school district, as defined in ORS 330.005,
25 may impose a construction tax only in accordance with ORS 320.170 to 320.189.

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

29 “**SECTION 3.** Section 1, chapter 829, Oregon Laws 2007, is added to and made a part of
30 ORS 320.170 to 320.189.

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

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

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

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

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

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

42 “(3) For purposes of [*this section and sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189,**
43 construction taxes are limited to privilege taxes imposed under [*sections 2 to 8 of this 2007 Act*] **ORS**
44 **320.170 to 320.189** and do not include any other financial obligations such as building permit fees,
45 financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or

1 financial obligations imposed on the basis of factors such as income.

2 **“SECTION 5.** ORS 320.176 is amended to read:

3 **“320.176. (1) Construction taxes imposed [under ORS 320.170 to 320.189] by a school district**
4 **pursuant to ORS 320.170** may be imposed only on improvements to real property that result in a
5 new structure or additional square footage in an existing structure and may not exceed:

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

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

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

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

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

21 **“(c) As used in this subsection, ‘construction cost index’ means the Engineering News-Record**
22 **Construction Cost Index, or a similar nationally recognized index of construction costs as identified**
23 **by the department by rule.**

24 **“SECTION 6.** ORS 320.186 is amended to read:

25 **“320.186. A school district may pledge construction taxes imposed pursuant to ORS 320.170**
26 **to the payment of obligations issued to finance or refinance capital improvements as defined in ORS**
27 **320.183.**

28 **“SECTION 7. Sections 8 and 9 of this 2016 Act are added to and made a part of ORS**
29 **320.170 to 320.189.**

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

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

37 **“(b) The ordinance or resolution shall state the rate of the tax. The tax may not exceed**
38 **one percent of the permit valuation.**

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

41 **“(3)(a) A tax may be imposed on improvements to commercial and industrial real prop-**
42 **erty that result in a new structure or additional square footage in an existing structure, in-**
43 **cluding remodeling that adds living space.**

44 **“(b) The ordinance or resolution shall state the rate of the tax. The tax may not exceed**
45 **one percent of the permit valuation.**

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

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

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

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

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

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

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

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

26 “**SECTION 11.** A city or county may not adopt a regulation, provision or requirement
27 under ORS 197.309, as amended by section 1 of this 2016 Act, until the 180th day after the
28 effective date of this 2016 Act.

29 “**SECTION 12.** This 2016 Act takes effect on the 91st day after the date on which the 2016
30 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.”.