

SB 1533-2
(LC 241)
2/10/16 (EMM/ps)

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO
SENATE BILL 1533**

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

5 Delete lines 4 through 28 and insert:

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

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

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

19 **“[(2)] (3) [This] The provisions of subsection (2) of this section [does]**
20 **do not limit the authority of a [city, county or] metropolitan service district**
21 **to:**

1 “(a) Adopt or enforce a [*land*] use regulation, [*functional plan*] provision
2 or [*condition of approval*] **requirement** creating or implementing an incen-
3 tive, contract commitment, density bonus or other voluntary regulation,
4 provision or [*condition*] **requirement** designed to increase the supply of
5 moderate or lower cost housing units; or

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

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

15 “(5) **A regulation, provision or requirement adopted under sub-**
16 **section (4) of this section:**

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

19 “(b) **May apply only to multifamily structures containing at least**
20 **10 housing units in cities or counties with a population of 600,000 or**
21 **less;**

22 “(c) **May apply only to multifamily structures containing at least**
23 **20 housing units in cities or counties with a population greater than**
24 **600,000;**

25 “(d) **Must offer developers payment of an in-lieu fee in exchange for**
26 **providing the requisite number of housing units within the multifam-**
27 **ily structure to be sold or rented at below-market rates; and**

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

29 “(A) **Density adjustments.**

30 “(B) **Fee waivers or reductions.**

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

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

3 “(E) Finance-based incentives.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(a) A tax that is in effect as of May 1, 2007, or to the extension or con-
12 tinuation of such a tax, provided that the rate of tax does not increase from
13 the rate in effect as of May 1, 2007;

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

15 “(c) The amendment or increase of a tax adopted by a county for trans-
16 portation purposes prior to May 1, 2007, provided that the proceeds of such
17 a tax continue to be used for those purposes.

18 “(3) For purposes of [*this section and sections 2 to 8 of this 2007 Act*] **ORS**
19 **320.170 to 320.189**, construction taxes are limited to privilege taxes imposed
20 under [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189** and do not
21 include any other financial obligations such as building permit fees, financial
22 obligations that qualify as system development charges under ORS 223.297
23 to 223.314 or financial obligations imposed on the basis of factors such as
24 income.

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

26 “320.176. (1) Construction taxes imposed [*under ORS 320.170 to 320.189*]
27 **by a school district pursuant to ORS 320.170** may be imposed only on
28 improvements to real property that result in a new structure or additional
29 square footage in an existing structure and may not exceed:

30 “(a) \$1 per square foot on structures or portions of structures intended

1 for residential use, including but not limited to single-unit or multiple-unit
2 housing; and

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

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

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

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

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

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

24 “320.186. A school district may pledge construction taxes **imposed pur-**
25 **suant to ORS 320.170** to the payment of obligations issued to finance or
26 refinance capital improvements as defined in ORS 320.183.

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

29 **“SECTION 8.** (1) **The governing body of a local government or local**
30 **service district, as defined in ORS 174.116, or a special government**

1 body, as defined in ORS 174.117, may impose a construction tax by
2 adoption of an ordinance or resolution that conforms to the require-
3 ments of this section and section 9 of this 2016 Act.

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

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

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

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

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

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

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

28 “(2) Of the revenues deposited pursuant to subsection (1) of this
29 section, the local government, local service district or special govern-
30 ment body may retain an amount not to exceed four percent as an

1 administrative fee to recoup the expenses of the local government,
2 local service district or special government body incurred in complying
3 with the requirements of this section.

4 “(3) After deducting the administrative fee authorized under sub-
5 section (2) of this section and paying any refunds, the local govern-
6 ment, local service district or special government body shall distribute
7 the remaining revenues received under section 8 (2) of this 2016 Act
8 as follows:

9 “(a) Eighty-five percent to fund developer incentives permitted un-
10 der ORS 197.309 and programs related to needed housing; and

11 “(b) Fifteen percent to the Housing and Community Services De-
12 partment to fund home ownership programs that provide down pay-
13 ment assistance.

14 “(4) After deducting the administrative fee authorized under sub-
15 section (2) of this section and paying any refunds, the local govern-
16 ment, local service district or special government body shall distribute
17 fifty percent of the remaining revenues received under section 8 (3)
18 of this 2016 Act to fund programs related to needed housing.

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

20 “SECTION 11. A city or county may not adopt a regulation, pro-
21 vision or requirement under ORS 197.309, as amended by section 1 of
22 this 2016 Act, until the 180th day after the effective date of this 2016
23 Act.

24 “SECTION 12. This 2016 Act takes effect on the 91st day after the
25 date on which the 2016 regular session of the Seventy-eighth Legisla-
26 tive Assembly adjourns sine die.”.

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