

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO A-ENGROSSED  
SENATE BILL 1533**

1 On page 1 of the printed A-engrossed bill, line 2, after “197.309,” insert  
2 “307.515, 307.540.”

3 Delete lines 6 through 20 and delete pages 2 through 5 and insert:

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

5 **“197.309. (1) As used in this section:**

6 **“(a) ‘Affordable housing’ means housing that is affordable to**  
7 **households with incomes equal to or higher than 80 percent of the**  
8 **median family income for the county in which the housing is built.**

9 **“(b) ‘Multifamily structure’ means a structure situated on a single**  
10 **lot or parcel that contains three or more housing units sharing at**  
11 **least one wall, floor or ceiling surface in common with another unit**  
12 **within the same structure.**

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

21 **“[(2)] (3) [This] The provisions of subsection (2) of this section [does]**

1 **do** not limit the authority of a [*city, county or*] metropolitan service district  
2 to:

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

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

10 “(4) **Notwithstanding ORS 91.225, a city or county may adopt a land**  
11 **use regulation or functional plan provision, or impose as a condition**  
12 **for approving a permit under ORS 215.427 or 227.178 a requirement,**  
13 **that has the effect of establishing the sales or rental price for a new**  
14 **multifamily structure, or that requires a new multifamily structure**  
15 **to be designated for sale or rent as affordable housing.**

16 “(5) **A regulation, provision or condition adopted under subsection**  
17 **(4) of this section:**

18 “(a) **May not require more than 20 percent of housing units within**  
19 **a multifamily structure to be sold or rented as affordable housing;**

20 “(b) **May apply only to multifamily structures containing at least**  
21 **20 housing units; and**

22 “(c) **Must offer developers one or more of the following incentives:**

23 “(A) **For multifamily structures for sale, whole or partial fee waiv-**  
24 **ers or reductions.**

25 “(B) **For multifamily structures for sale, whole or partial waivers**  
26 **of system development charges or impact fees imposed by the city or**  
27 **county that adopts the regulation, provision or condition under sub-**  
28 **section (4) of this section.**

29 “(C) **For multifamily structures for sale, finance-based incentives.**

30 “(D) **For multifamily structures for rent, an exemption from ad**

1 valorem property taxes under ORS 307.515 to 307.523 and 307.540 to  
2 307.548 using a definition of ‘low income’ to mean income at or below  
3 80 percent of the area median income as determined by the Oregon  
4 Housing Stability Council based on information from the United States  
5 Department of Housing and Urban Development.

6 “(6) A regulation, provision or condition adopted under subsection  
7 (4) of this section may offer developers:

8 “(a) Payment of an in-lieu fee in exchange for providing the requi-  
9 site number of housing units within the multifamily structure to be  
10 sold or rented at below-market rates; and

11 “(b) One or more of the following incentives:

12 “(A) Density adjustments.

13 “(B) Expedited service for local permitting processes.

14 “(C) Modification of height, floor area or other site-specific re-  
15 quirements.

16 “(D) Other incentives as determined by the city or county.

17 “(7)(a) A city or county that adopts a regulation, provision or con-  
18 dition described in subsection (4) of this section may not apply the  
19 regulation, provision or condition to any multifamily structure for  
20 which a complete design review application or, where design review is  
21 not required, a building permit application has been submitted to the  
22 city or county prior to the date of adoption of the regulation, provision  
23 or condition.

24 “(b) If a multifamily structure described in paragraph (a) of this  
25 subsection has not been completed within the period required by the  
26 permit issued by the city or county, the developer of the multifamily  
27 structure shall resubmit a complete design review or, where design  
28 review is not required, reapply for a building permit under the regu-  
29 lation, provision or condition adopted by the city or county under  
30 subsection (4) of this section.

1       **“(8)(a) A city or county that adopts a regulation, provision or con-**  
2 **dition under subsection (4) of this section shall adopt and apply only**  
3 **clear and objective standards, conditions and procedures regulating**  
4 **the development of housing units within its jurisdiction. The stan-**  
5 **dards, conditions and procedures may not have the effect, either indi-**  
6 **vidually or cumulatively, of discouraging development of housing units**  
7 **through unreasonable cost or delay.**

8       **“(b) Paragraph (a) of this subsection does not apply to an applica-**  
9 **tion or permit for residential development in an area identified in a**  
10 **formally adopted central city plan, or a regional center as defined by**  
11 **Metro, in a city with a population of 500,000 or more.**

12       **“(9) In addition to or in lieu of adopting a regulation, provision or**  
13 **condition under subsection (4) of this section, a city or county may**  
14 **adopt a regulation, provision or condition permitting developers to**  
15 **establish a sale or rental price for a development, or to designate a**  
16 **development for sale or rent to a particular class or group of pur-**  
17 **chasers or renters based on income, in exchange for one or more of**  
18 **the following incentives:**

19       **“(a) Fee waivers or reductions.**

20       **“(b) Finance-based incentives.**

21       **“(c) Density adjustments.**

22       **“(d) Expedited service for local permitting processes.**

23       **“(e) Modification of height, floor area or other site-specific re-**  
24 **quirements.**

25       **“(f) An exemption from ad valorem property taxes under ORS**  
26 **307.515 to 307.523 and 307.540 to 307.548 using a definition of ‘low**  
27 **income’ to mean income at or below 80 percent of the area median**  
28 **income as determined by the Oregon Housing Stability Council based**  
29 **on information from the United States Department of Housing and**  
30 **Urban Development.**

1       “(g) **Waivers of system development charges or impact fees imposed**  
2 **by the city or county that adopts the regulation, provision or condition**  
3 **under subsection (4) of this section.**

4       “(h) **Other incentives as determined by the city or county.**

5       “**SECTION 2.** ORS 307.515 is amended to read:

6       “307.515. As used in ORS 307.515 to 307.523:

7       “(1) ‘Governing body’ means the city or county legislative body having  
8 jurisdiction over the property for which an exemption may be applied for  
9 under ORS 307.515 to 307.523.

10       “(2) ‘Lender’ means the provider of a loan secured by the recorded deed  
11 of trust or recorded mortgage made to finance the purchase, construction or  
12 rehabilitation of a property used for low income housing under the criteria  
13 listed in or adopted under ORS 307.517 or 307.518.

14       “(3) ‘Low income’ means income at or below 60 percent of the area median  
15 income as determined by the Oregon Housing Stability Council based on in-  
16 formation from the United States Department of Housing and Urban Devel-  
17 opment, **unless the governing body of the city or county has made an**  
18 **election pursuant to ORS 197.309.**

19       “**SECTION 3.** ORS 307.540 is amended to read:

20       “307.540. As used in ORS 307.540 to 307.548:

21       “(1) ‘Governing body’ means the city or county legislative body having  
22 jurisdiction over the property for which an exemption may be applied for  
23 under ORS 307.540 to 307.548.

24       “(2)(a) According to the election of a governing body pursuant to ORS  
25 307.543 (1), ‘low income’ means:

26       “[(a)] (A) Income at or below 60 percent of the area median income as  
27 determined by the Oregon Housing Stability Council based on information  
28 from the United States Department of Housing and Urban Development; or

29       “[(b)(A)] (B)(i) For the initial year that persons occupy property for  
30 which an application for exemption is filed under ORS 307.545, income at or

1 below 60 percent of the area median income as determined by the Oregon  
2 Housing Stability Council based on information from the United States De-  
3 partment of Housing and Urban Development; and

4 “[*B*] (ii) For every subsequent consecutive year that the persons occupy  
5 the property, income at or below 80 percent of the area median income as  
6 determined by the Oregon Housing Stability Council based on information  
7 from the United States Department of Housing and Urban Development.

8 **“(b) Notwithstanding paragraph (a) of this subsection, if a govern-  
9 ing body has made an election pursuant to ORS 197.309, ‘low income’  
10 means income at or below 80 percent of the area median income as  
11 determined by the Oregon Housing Stability Council based on infor-  
12 mation from the United States Department of Housing and Urban  
13 Development.**

14 **“SECTION 4.** ORS 320.170 is amended to read:

15 “320.170. (1) [*Construction taxes may be imposed by*] A school district, as  
16 defined in ORS 330.005, **may impose a construction tax only** in accordance  
17 with ORS 320.170 to 320.189.

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

22 **“SECTION 5. Section 1, chapter 829, Oregon Laws 2007, is added to  
23 and made a part of ORS 320.170 to 320.189.**

24 **“SECTION 6.** Section 1, chapter 829, Oregon Laws 2007, is amended to  
25 read:

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

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

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

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

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

9 “(3) For purposes of [*this section and sections 2 to 8 of this 2007 Act*] **ORS**  
10 **320.170 to 320.189**, construction taxes are limited to privilege taxes imposed  
11 under [*sections 2 to 8 of this 2007 Act*] **ORS 320.170 to 320.189** and do not  
12 include any other financial obligations such as building permit fees, financial  
13 obligations that qualify as system development charges under ORS 223.297  
14 to 223.314 or financial obligations imposed on the basis of factors such as  
15 income.

16 **“SECTION 7.** ORS 320.176 is amended to read:

17 “320.176. (1) Construction taxes imposed [*under ORS 320.170 to 320.189*]  
18 **by a school district pursuant to ORS 320.170** may be imposed only on  
19 improvements to real property that result in a new structure or additional  
20 square footage in an existing structure and may not exceed:

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

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

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

30 “(3)(a) For years beginning on or after June 30, 2009, the limitations un-

1 der subsections (1) and (2) of this section shall be adjusted for changes in  
2 construction costs by multiplying the limitations set forth in subsections (1)  
3 and (2) of this section by the ratio of the averaged monthly construction cost  
4 index for the 12-month period ending June 30 of the preceding calendar year  
5 over the averaged monthly construction cost index for the 12-month period  
6 ending June 30, 2008.

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

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

14 **“SECTION 8.** ORS 320.186 is amended to read:

15 “320.186. A school district may pledge construction taxes **imposed pur-**  
16 **suant to ORS 320.170** to the payment of obligations issued to finance or  
17 refinance capital improvements as defined in ORS 320.183.

18 **“SECTION 9. Sections 10 and 11 of this 2016 Act are added to and**  
19 **made a part of ORS 320.170 to 320.189.**

20 **“SECTION 10. (1) The governing body of a city or county may im-**  
21 **pose a construction tax by adoption of an ordinance or resolution that**  
22 **conforms to the requirements of this section and section 11 of this 2016**  
23 **Act.**

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

27 **“(b) An ordinance or resolution imposing the tax described in par-**  
28 **agraph (a) of this subsection must state the rate of the tax. The tax**  
29 **may not exceed one percent of the permit valuation for residential**  
30 **construction permits issued by the city or county either directly or**

1 through the Building Codes Division of the Department of Consumer  
2 and Business Services.

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

7 “(b) An ordinance or resolution imposing the tax described in par-  
8 agraph (a) of this subsection must state the rate and base of the tax.

9 “(4) Taxes imposed pursuant to this section shall be paid at the time  
10 specified in ORS 320.189 to the city or county that imposed the tax.

11 “(5)(a) This section and section 11 of this 2016 Act do not apply to  
12 a tax described in section 1 (2), chapter 829, Oregon Laws 2007.

13 “(b) Conformity of a tax imposed pursuant to this section by a city  
14 or county to the requirements of this section and section 11 of this 2016  
15 Act shall be determined without regard to any tax described in section  
16 1 (2), chapter 829, Oregon Laws 2007, that is imposed by the city or  
17 county.

18 “SECTION 11. (1) As soon as practicable after the end of each fiscal  
19 quarter, a city or county that imposes a construction tax pursuant to  
20 section 10 of this 2016 Act shall deposit the construction tax revenues  
21 collected in the fiscal quarter just ended in the general fund of the city  
22 or county.

23 “(2) Of the revenues deposited pursuant to subsection (1) of this  
24 section, the city or county may retain an amount not to exceed four  
25 percent as an administrative fee to recoup the expenses of the city or  
26 county incurred in complying with this section.

27 “(3) After deducting the administrative fee authorized under sub-  
28 section (2) of this section and paying any refunds, the city or county  
29 shall use the remaining revenues received under section 10 (2) of this  
30 2016 Act as follows:

1       “(a) Fifty percent to fund developer incentives required under ORS  
2 197.309 (5)(c);

3       “(b) Fifteen percent to be distributed to the Housing and Commu-  
4 nity Services Department to fund home ownership programs that  
5 provide down payment assistance; and

6       “(c) Thirty-five percent for programs and incentives of the city or  
7 county related to needed housing.

8       “(4) After deducting the administrative fee authorized under sub-  
9 section (2) of this section and paying any refunds, the city or county  
10 shall use 50 percent of the remaining revenues received under section  
11 10 (3) of this 2016 Act to fund programs of the city or county related  
12 to housing.

13       “SECTION 12. Section 9, chapter 829, Oregon Laws 2007, is repealed.

14       “SECTION 13. A city or county may not adopt a regulation, pro-  
15 vision or requirement under ORS 197.309, as amended by section 1 of  
16 this 2016 Act, until the 180th day after the effective date of this 2016  
17 Act.

18       “SECTION 14. This 2016 Act takes effect on the 91st day after the  
19 date on which the 2016 regular session of the Seventy-eighth Legisla-  
20 tive Assembly adjourns sine die.”.

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