

House Bill 2377

Sponsored by Representatives SMITH D, SMITH G, Senator ROBLAN, Representative BUEHLER; Representative BARRETO (Pre-session filed.)

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 city or county to adopt ordinance or resolution granting exemption for newly rehabilitated or constructed multiunit rental housing. Provides that exemption may be granted for term of up to 10 years depending on number of units rented at or below maximum monthly rent related to average annual per capita income and annual median household income in county. Provides that ordinance or resolution granting exemption may not take effect unless rates of taxation of taxing districts whose governing bodies agree to grant exemption equal 51 percent or more of total combined rate of taxation on qualified property. Requires exemption to be granted to all eligible rental property on same terms in effect on date application is submitted. Prohibits stacking of exemptions or special assessments, other than exemption for commercial facilities under construction. Allows city or county to amend exemption, subject to approval process of taxing districts, or terminate exemption, but provides that qualified property granted exemption continues to receive exemption under same terms in effect at time exemption was first granted.

Allows credit against net income taxes for portion of eligible costs of newly rehabilitated or constructed single-family dwellings that sell for price related to average annual per capita income and annual median household income in county.

Sunset on January 2, 2027.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax incentives for affordable housing; and prescribing an effective date.

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

4 **SECTION 1. (1) As used in sections 1 to 3 of this 2017 Act:**

5 (a) **"Eligible rental property" means newly rehabilitated or constructed multiunit rental**
6 **housing.**

7 (b) **"Qualified property" means eligible rental property for which an application has been**
8 **approved under section 2 of this 2017 Act.**

9 (2)(a) **The governing body of a city or county may adopt an ordinance or resolution**
10 **granting a property tax exemption for eligible rental property located within the boundaries**
11 **of the city or county, respectively.**

12 (b) **The terms of the exemption must conform to the provisions of sections 1 to 3 of this**
13 **2017 Act.**

14 (3) **The exemption may be granted to eligible rental property only if:**

15 (a) **The rehabilitation or construction is completed after the ordinance or resolution has**
16 **been adopted; and**

17 (b) **The first assessment year to which the application filed under section 2 of this 2017**
18 **Act relates is the first assessment year that begins after the eligible rental property is first**
19 **offered for rent for residential occupancy upon completion of the rehabilitation or con-**
20 **struction.**

21 (4) **An ordinance or resolution adopted pursuant to this section must establish a schedule**
22 **in which the number of consecutive property tax years for which the exemption is granted**

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 increases directly with the percentage of units constituting the eligible rental property that
 2 are rented at or below the maximum monthly rent determined under section 3 of this 2017
 3 Act, up to a maximum of 10 years.

4 (5)(a) An ordinance or resolution adopted pursuant to this section may not take effect
 5 unless, upon request of the city or county that adopted the ordinance or resolution, the rates
 6 of taxation of the taxing districts whose governing bodies agree to grant the exemption,
 7 when combined with the rate of taxation of the city or county, equal 51 percent or more of
 8 the total combined rate of taxation on the qualified property.

9 (b) If the ordinance or resolution takes effect, the exemption shall apply to all property
 10 tax levies of all taxing districts in which qualified property is located.

11 (c) The decisions of the taxing districts under paragraph (a) of this subsection may not
 12 be changed but are not binding with respect to an ordinance or resolution adopted pursuant
 13 to subsection (6) of this section or a new ordinance or resolution adopted pursuant to sub-
 14 section (2) of this section.

15 (d) All qualified property shall be granted exemption under this section on the same
 16 terms provided in the ordinance or resolution adopted or amended by the city or county and
 17 in effect on the date the application is submitted under section 2 of this 2017 Act.

18 (6)(a) A city or county may adopt at any time an ordinance or resolution amending the
 19 terms of an exemption granted pursuant to this section, subject to approval of the taxing
 20 districts under subsection (5)(a) of this section, or terminating the exemption.

21 (b) Notwithstanding an ordinance or resolution adopted under paragraph (a) of this sub-
 22 section, qualified property that has been granted an exemption pursuant to this section shall
 23 continue to receive the exemption under the terms in effect at the time the exemption was
 24 first granted.

25 (7)(a) Qualified property granted an exemption pursuant to this section is not eligible for
 26 any other property tax exemption or special assessment.

27 (b) Otherwise eligible rental property that has received another property tax exemption
 28 or special assessment is not eligible for an exemption granted under this section.

29 (c) Paragraphs (a) and (b) of this subsection do not apply to the exemption granted under
 30 ORS 307.330.

31 **SECTION 2.** (1)(a) The governing body of a city or county that adopts an ordinance or
 32 resolution pursuant to section 1 of this 2017 Act shall prescribe exemption application forms
 33 and the information required to be included in an application.

34 (b) If eligible rental property is located in a city and county, each of which has adopted
 35 an ordinance or resolution under section 1 of this 2017 Act, the applicant shall elect the ex-
 36 emption the applicant wishes to receive for the eligible rental property by submitting the
 37 application to the city or the county, as applicable.

38 (c) The applicant must be the owner or lessee of the eligible rental property to which the
 39 application relates.

40 (d) An application must be accompanied by an application fee fixed by the city or county,
 41 as applicable, in an amount determined to compensate the city or county for the actual costs
 42 of processing the application.

43 (2)(a) An application must be submitted for review to the city or county, as applicable,
 44 on or before March 1 preceding the property tax year to which the application relates.

45 (b) Notwithstanding paragraph (a) of this subsection, an application may be filed under

1 this section for the current property tax year:

2 (A) On or before December 31 of the property tax year, if the application is accompanied
 3 by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value
 4 as of the most recent assessment date of the eligible rental property to which the application
 5 relates.

6 (B) On or before April 1 of the property tax year, if the application is accompanied by a
 7 late filing fee of \$200 and the applicant demonstrates good and sufficient cause, as defined in
 8 ORS 307.162, for failing to file a timely application or is a first-time filer, as defined in ORS
 9 307.162, of an application under this subsection.

10 (c)(A) An application may be filed as provided in paragraph (b) of this subsection
 11 notwithstanding that there are no grounds for hardship as required for late filing under ORS
 12 307.475.

13 (B) A late filing fee collected under paragraph (b) of this subsection must be deposited
 14 in the general fund of the city or county, as applicable.

15 (3)(a) Upon receipt of an initial application submitted pursuant to subsection (2) of this
 16 section, the city or county, as applicable, shall determine as soon as practicable:

17 (A) Whether the property to which the application relates is eligible rental property lo-
 18 cated within the boundaries of the city or county;

19 (B) The date on which the rehabilitation or construction of the eligible rental property
 20 was or will be completed; and

21 (C) The date on which the eligible rental property was first offered for rent for residential
 22 occupancy.

23 (b) If any eligibility determination made under this subsection renders the property in-
 24 eligible for the exemption, the application shall be rejected and may not be appealed.

25 (4)(a) The owner or lessee of qualified property granted exemption for the current prop-
 26 erty tax year must submit an application under subsection (2) of this section for each sub-
 27 sequent property tax year for which the qualified property remains eligible under section 1
 28 (4) of this 2017 Act. Each application must include information necessary to make the de-
 29 termination of maximum monthly rents required under section 3 of this 2017 Act with re-
 30 spect to the qualified property.

31 (b) If any eligibility determination made under this subsection renders the qualified
 32 property ineligible for the exemption, the application shall be rejected.

33 (5) If the property qualifies for the exemption under subsection (3) or (4) of this section
 34 and the application meets the requirements of the ordinance or resolution of the city or
 35 county, the governing body shall adopt a resolution:

36 (a) Approving the application; and

37 (b) Notifying the assessor of the county in which the qualified property is located of the
 38 approval and including with the notification all information necessary for the assessor to
 39 perform the assessor's duties with respect to the qualified property.

40 **SECTION 3.** (1) For purposes of a schedule described in section 1 (4) of this 2017 Act, the
 41 maximum monthly rent of a unit shall be determined as follows:

42 (a) For each of the preceding consecutive 10 years, using the best available information
 43 and data, the assessor of the county in which the eligible rental property is located shall first
 44 determine the average annual per capita income and the annual median household income
 45 in the county;

1 (b) For each of the 10 years, the respective average and median amounts determined
 2 pursuant to paragraph (a) of this subsection shall be added together and the sum divided by
 3 24;

4 (c) The 10 quotients determined pursuant to paragraph (b) of this subsection shall be
 5 added together and the sum divided by 10; and

6 (d) The quotient determined pursuant to paragraph (c) of this subsection shall be multi-
 7 plied by __ percent to arrive at the maximum monthly rent for a unit.

8 (2) As soon as practicable after January 1 of each year, each county assessor shall:

9 (a) Make the determination of maximum monthly rent required under subsection (1) of
 10 this section;

11 (b) Notify each owner or lessee of qualified property granted exemption for the imme-
 12 diately preceding property tax year of the determination; and

13 (c) Publish the determination on the website of the county.

14 **SECTION 4.** (1) Sections 1 to 3 of this 2017 Act are repealed on January 2, 2027.

15 (2) Notwithstanding the date specified in subsection (1) of this section, qualified property
 16 that is granted exemption under an ordinance or resolution adopted pursuant to section 1
 17 of this 2017 Act before the date specified in subsection (1) of this section shall continue to
 18 receive the exemption under the provisions of the ordinance or resolution for the period of
 19 time for which the exemption was granted.

20 **SECTION 5.** (1) As used in this section and section 6 of this 2017 Act:

21 (a) “Eligible costs” means the costs of acquisition other than the costs of acquiring land,
 22 finance costs, permit costs, construction costs and rehabilitation costs.

23 (b) “Eligible residential property” means one or more newly rehabilitated or constructed
 24 single-family dwellings located in this state.

25 (2) A credit is allowed against the taxes otherwise due under ORS 316, or, if the taxpayer
 26 is a corporation, under ORS chapter 317 or 318, for eligible residential property for which a
 27 certificate of eligibility has been issued under section 6 of this 2017 Act.

28 (3) The credit shall be allowed for the first tax year of the taxpayer that begins after the
 29 taxpayer has entered into a contract of sale with a purchaser who will occupy the eligible
 30 residential property as a single-family dwelling.

31 (4) The credit shall be allowed in an amount equal to the lesser of:

32 (a) _____ percent of the eligible costs with respect to the eligible residential property;
 33 and

34 (b) The tax liability of the taxpayer for the tax year in which the credit is allowed.

35 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
 36 in the tax year described in subsection (3) of this section may be carried forward and offset
 37 against the taxpayer’s tax liability for the next succeeding tax year. Any credit remaining
 38 unused in the next succeeding tax year may be carried forward and used in the second tax
 39 year, and any credit not used in the second succeeding tax year may be carried forward and
 40 used in the third succeeding tax year, but may not be carried forward for any succeeding tax
 41 year.

42 (6) The credit allowed under this section is not in lieu of any depreciation or amortization
 43 deduction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or
 44 318 for the tax year.

45 (7) The taxpayer’s adjusted basis for determining gain or loss may not be further de-

1 creased by any amount of credit allowed under this section.

2 (8)(a) A nonresident shall be allowed the credit under this section in the proportion pro-
3 vided in ORS 316.117.

4 (b) If a change in the status of a taxpayer from resident to nonresident or from nonres-
5 ident to resident occurs, the credit allowed under this section shall be determined in a
6 manner consistent with ORS 316.117.

7 (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or
8 if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the
9 credit allowed under this section shall be prorated or computed in a manner consistent with
10 ORS 314.085.

11 (9) A tax credit allowed under this section may not be sold or transferred, except that
12 tax credits that a partnership, limited liability company, S corporation or other pass-through
13 entity is entitled to claim may be allocated to the partners, members or shareholders of the
14 entity for their direct use in accordance with the provisions of any agreement among the
15 partners, members or shareholders.

16 **SECTION 6.** (1) In order to receive a tax credit under section 5 of this 2017 Act, a tax-
17 payer must submit to the Housing and Community Services Department on a form pre-
18 scribed by the department a claim with respect to each eligible residential property for which
19 a credit is claimed.

20 (2) The claim must contain:

21 (a) Evidence showing:

22 (A) That the property is eligible residential property;

23 (B) That the person submitting the claim has entered into a contract of sale for the eli-
24 gible residential property at a price that does not exceed _____ percent of the quotient
25 most recently determined under section 3 (1)(c) of this 2017 Act by the assessor of the county
26 in which the eligible residential property is located; and

27 (C) The eligible costs for the eligible residential property; and

28 (b) Any other information the department may require.

29 (3)(a) If the department determines that the eligible residential property does not meet
30 any of the requirements under section 5 of this 2017 Act or this section, the department shall
31 deny the claim.

32 (b) If the department determines that the eligible residential property meets all the re-
33 quirements under section 5 of this 2017 Act and this section, the department shall issue to
34 the taxpayer a certificate of eligibility for the tax credit allowable under section 5 of this 2017
35 Act. The certificate shall state the approved amount of eligible costs for the eligible resi-
36 dential property.

37 (4) At the conclusion of each calendar year, the department shall send a list of the
38 names, addresses and taxpayer identification numbers of taxpayers to whom a certificate of
39 eligibility has been issued under this section during the calendar year, along with approved
40 amounts of eligible costs for each eligible residential property, to the Department of Re-
41 venue.

42 (5) Notwithstanding that a certificate of eligibility has been issued to a taxpayer under
43 this section, the Department of Revenue may disallow, in whole or in part, a claim for credit
44 under section 5 of this 2017 Act upon the department's determination that under the pro-
45 visions of section 5 of this 2017 Act the taxpayer is not entitled to the credit or is only en-

1 titled to a portion of the amount claimed.

2 **SECTION 7.** (1) Sections 5 and 6 of this 2017 Act are repealed on January 2, 2027.

3 (2) Notwithstanding the date specified in subsection (1) of this section, a taxpayer allowed
4 a credit under section 5 of this 2017 Act before the date specified in subsection (1) of this
5 section may carry unused portions of the credit forward as provided under section 5 (5) of
6 this 2017 Act.

7 **SECTION 8.** This 2017 Act takes effect on the 91st day after the date on which the 2017
8 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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