

House Bill 2773

Sponsored by COMMITTEE ON REVENUE

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 designate area within jurisdiction as vertical housing development zone. Removes Housing and Community Services Department from designation process. Establishes requirements for city or county to certify vertical housing development project within zone.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to vertical housing development zone program administration; creating new provisions;
3 amending ORS 307.841, 307.844, 307.854, 307.857, 307.861, 307.864, 307.866 and 307.867 and sec-
4 tion 13, chapter 119, Oregon Laws 2005; repealing ORS 307.847 and 307.851; and prescribing an
5 effective date.

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

7 **SECTION 1.** ORS 307.841 is amended to read:

8 307.841. As used in ORS 307.841 to 307.867:

9 (1) "Construction" means the development of land and the construction of improvements to land,
10 and may be further defined by the [*Housing and Community Services Department by rule*] **city or**
11 **county that designated the vertical housing development zone under ORS 307.844.**

12 (2) "Equalized floor" means the quotient determined under ORS 307.857 [(3)(b)] **(4)(b).**

13 [(3) "*Light rail station area*" has the meaning given that term in ORS 307.603.]

14 [(4)] **(3)** "Low income residential housing" means housing that is restricted to occupancy by
15 persons or families whose income is no greater than 80 percent of area median income, adjusted for
16 family size, as determined by the **Housing and Community Services** Department.

17 [(5)] **(4)** "Nonresidential use" means any use that is not exclusively residential use.

18 [(6)] **(5)** "Rehabilitation" means [*the substantial*] repair **or replacement** of improvements, **in-**
19 **cluding fixtures**, or land developments, **the cost of which equals at least 20 percent of the real**
20 **market value of the improvements or land developments being repaired or replaced**, and may
21 be further defined by the [*department by rule*] **city or county that designated the zone.**

22 [(7) "*Transit oriented area*" has the meaning given that term in ORS 307.603.]

23 [(8)] **(6)** "Vertical housing development project" or "project" means the construction or reha-
24 bilitation of a multiple-story building, or a group of buildings, including at least one multiple-story
25 building, so that a portion of the project is to be used for nonresidential uses and a portion of the
26 project is to be used for residential uses.

27 [(9)] **(7)** "Vertical housing development zone" or "zone" means an area that has been designated
28 a vertical housing development zone under ORS [307.847] **307.844.**

29 **SECTION 2.** ORS 307.844 is amended to read:

30 307.844. (1)(a) A city may [*apply to the Housing and Community Services Department for desig-*

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 *nation of an* **designate an** area within the city as a vertical housing development zone.

2 (b) A county may [*apply to the Housing and Community Services Department for designation of*
 3 *an unincorporated area within the county*] **designate** as a vertical housing development zone **an area**
 4 **that is subject to a goal exception for residential use approved under ORS 197.732.**

5 (2) With the prior consent of the governing body of each city in which a proposed **vertical**
 6 **housing development** zone is to be located, a county may [*apply to the department for designation*
 7 *of*] **designate** any area within each city that has given consent for vertical housing development
 8 zone designation **as a vertical housing development zone.**

9 (3) A city and a county, or any combination of cities and counties, may [*apply to the department*
 10 *for designation of an*] **designate an** area [*situated*] within each [*applying*] jurisdiction as a vertical
 11 housing development zone.

12 (4) A local taxing district may elect not to participate in a vertical housing development zone.
 13 A local taxing district that elects not to participate may continue to impose taxes on property oth-
 14 erwise exempt from ad valorem property tax under ORS 307.864.

15 (5)(a) [*An application for designation of*] **Before designating** a vertical housing development
 16 zone [*must be submitted to the department. The application shall be in the form and contain the in-*
 17 *formation required by the department, including:*]

18 [(a) A list of], **a city or county, as applicable, must notify the** local taxing districts, other
 19 than the [*applicant*] **city or county**, that have territory in the proposed vertical housing develop-
 20 ment zone **of the city’s or county’s intention to designate a vertical housing development**
 21 **zone.**

22 (b) [*A copy of a written notification that the applicant mailed to the local taxing districts listed*
 23 *pursuant to paragraph (a) of this subsection that*] **The notice required under paragraph (a) of this**
 24 **subsection must be sent by regular mail and must:**

25 (A) [*Describes*] **Describe** the proposed vertical housing development zone;

26 (B) [*Explains*] **Explain** the exemption described in ORS 307.864 that would apply if the proposed
 27 zone is designated; **and**

28 (C) [*Explains*] **Explain** the process by which a local taxing district may elect not to participate
 29 in the vertical housing development zone[; and].

30 [(D) *Is in a form that is satisfactory to the department.*]

31 (c) [*A statement signed by the applicant attesting that the notification described in paragraph (b)*
 32 *of this subsection was sent by regular mail to each local taxing district listed pursuant to paragraph*
 33 *(a) of this subsection.*] **Notice of the election of a district listed in ORS 198.010 or 198.180 not**
 34 **to participate in the vertical housing development zone must be received by the city or**
 35 **county, as applicable, within 30 days after the district receives the notice required under**
 36 **paragraph (a) of this subsection.**

37 [(6) *The application shall:*]

38 [(a) *Be filed on behalf of one or more local government units as described in subsections (1) to (3)*
 39 *of this section by action of the governing body of each applicant;*]

40 [(b) *Contain a description of the area sought to be designated as a vertical housing development*
 41 *zone, including proposed zone boundaries;*]

42 [(c) *Contain the reasons that all or a portion of a proposed zone constitutes a core area of an urban*
 43 *center, a light rail system area or a transit oriented area; and*]

44 [(d) *Contain any other information required by the department.*]

45 [(7) *The applicant shall submit to the department, within 30 days following the date the application*

1 is filed with the department, a list of the local taxing districts that elected not to participate in the
 2 vertical housing development zone.]

3 **(6)(a) Not sooner than 60 days after sending the notice required under subsection (5)(a)**
 4 **of this section, the governing body of the city or county that seeks to designate a vertical**
 5 **housing development zone may adopt an ordinance or resolution designating the vertical**
 6 **housing development zone and describing the area and boundaries of the zone. The ordinance**
 7 **or resolution may include additional criteria for certification of a vertical housing develop-**
 8 **ment project that do not conflict with the requirements described in section 5 of this 2017**
 9 **Act.**

10 **(b) As soon as practicable after adopting the ordinance or resolution designating the**
 11 **zone, the governing body shall notify the assessor of the county in which the zone is located**
 12 **of the designation of the zone and the districts that elected not to participate in the zone.**

13 **SECTION 3.** ORS 307.854 is amended to read:

14 307.854. (1) Following the designation of a vertical housing development zone under ORS
 15 [307.847] **307.844**, the city or county that [*sought zone designation*] **designated the zone** may acquire
 16 or dispose of real property within the zone for the purpose of developing vertical housing develop-
 17 ment projects within the zone.

18 **(2)** The development of projects may be undertaken by the city or county independently, jointly
 19 or in partnership with a private entity or may be undertaken by a private entity acting independ-
 20 ently.

21 **(3)** The entities undertaking the development of property under this section may own and oper-
 22 ate the developed property or may sell or otherwise dispose of the property at any time during or
 23 after development. The property may be sold at the property's real market value or at a lesser value.

24 **SECTION 4.** Section 5 of this 2017 Act is added to and made a part of ORS 307.841 to
 25 **307.867.**

26 **SECTION 5.** (1) A city or county may not certify a vertical housing development project
 27 under ORS 307.857 unless the project meets all requirements of this section.

28 **(2)** The project must be entirely located within a vertical housing development zone des-
 29 igned by the city or county with which the application for certification is filed.

30 **(3)** The project must include one or more equalized floors.

31 **(4)** Construction or rehabilitation must have been started on each building included in the
 32 project, including, but not limited to, additions that expand or enlarge an existing building.

33 **(5)(a)** At least 50 percent of the project's ground floor that fronts on the primary public
 34 street must be committed to nonresidential use. If a project has access to only one public
 35 street, the square footage of driveways, loading docks, bike storage, garbage receptacles and
 36 building entryways shall be excluded before applying the 50 percent test.

37 **(b)** For the project's ground floor to be considered committed to nonresidential use, all
 38 ground floor interior spaces that front on the primary public street must be constructed to
 39 building code standards for commercial use or planned for commercial use upon completion.

40 **SECTION 6.** ORS 307.857 is amended to read:

41 307.857. (1) Following the designation of a vertical housing development zone under ORS
 42 [307.847] **307.844**, a person proposing to undertake a proposed vertical housing development project
 43 and seeking the partial property tax exemption set forth in ORS 307.864 shall apply to the [*Housing*
 44 *and Community Services Department*] **governing body of the city or county that designated the**
 45 **zone** for certification of the project. **Each phase of a phased development, whether vertical or**

1 **horizontal, requires a separate application.**

2 (2) The application must be satisfactory to the [department] **city or county** in form and content
 3 and [shall] **must** contain any information required by the [department] **city or county**, including all
 4 of the following:

5 (a) The address and boundaries of the proposed vertical housing development project[;].

6 (b) A description of the existing state of the property[;].

7 (c) A description of the proposed project construction or rehabilitation, including the design of
 8 the construction or rehabilitation, the cost of the construction or rehabilitation and the number of
 9 floors and residential units to be constructed or rehabilitated[;].

10 (d) A description of the nonresidential uses to which any portion of the proposed project is to
 11 be put, including the proportion of total square footage of the project proposed for nonresidential
 12 uses[;].

13 (e) A description of the proposed portion of the project to be used for residential uses, including
 14 the proportion of total square footage of the project proposed for residential uses[;].

15 (f) A description of the number and nature of residential units in the proposed project that are
 16 to be low income residential housing, including the proportion of total square footage of the project
 17 proposed for low income residential housing uses[;].

18 (g) The calculation and allocations described under subsection [(3)] (4) of this section[; and].

19 **(h) Documentation establishing the costs of construction and rehabilitation with respect**
 20 **to the project.**

21 [(h)] (i) A commitment that is satisfactory to the [department] **city or county**, including doc-
 22 umentation and evidence of recording of the documentation, that the project will be maintained and
 23 operated in a manner consistent with the application submitted under this section for the duration
 24 of the commitment. The duration of the commitment, **including the eligibility of units in the**
 25 **project as low income residential housing**, may not be less than the number of tax years for
 26 which the project is intended to be partially exempt from ad valorem property taxes under ORS
 27 307.864.

28 **(3) For purposes of this section, square footage does not include areas used for parking,**
 29 **patios or porches, unless these areas are demonstrated to the satisfaction of the city or**
 30 **county to be economically necessary to the project or the city or county otherwise deter-**
 31 **mines that it is appropriate to include the areas in square footage.**

32 [(3)(a)] (4)(a) Each application filed under this section shall contain a calculation of equalized
 33 floors, an allocation of equalized floors to residential uses and an allocation of equalized floors to
 34 low income residential housing uses as determined under this subsection.

35 (b) An equalized floor is the quotient that results from the division of total square footage of a
 36 project by the number of actual floors of the project that are at least 500 square feet per floor, or
 37 as may be increased or otherwise qualified by the [department] **city or county** by rule.

38 (c) To allocate equalized floors to residential uses, divide the total square footage of residential
 39 property in the project by the square footage of an equalized floor.

40 (d) To allocate equalized floors to low income residential housing use, divide the total square
 41 footage of low income residential housing property in the project by the square footage of an
 42 equalized floor. In determining the square footage of low income residential housing property, in-
 43 clude that proportion of the square footage of residential common space that is the same as the
 44 proportion of the total square footage of low income residential housing units to the total square
 45 footage of all residential housing units.

1 (e) Land that is necessary for a project having at least one equalized floor of low income
 2 residential housing may be certified for partial exemption. Land that is not necessary for the
 3 project may not be certified for partial exemption.

4 [(4)] (5)(a) For rehabilitation that does not involve displacement of tenants, the applica-
 5 tion must be filed on or before the date on which the rehabilitation is complete.

6 (b) The application must be filed [under this section] on or before the date on which residential
 7 units that are a part of the vertical housing development project are ready for occupancy.

8 [(5)] (6) The [department] city or county shall review each application submitted under this
 9 section and shall certify or deny certification based on whether the proposed vertical housing de-
 10 velopment project meets the requirements described in section 5 of this 2017 Act and all criteria
 11 established by the [department by rule] city or county that are consistent with ORS 307.841 to
 12 307.867.

13 [(6)] (7) The [department] city or county may request any documentation or undertake any in-
 14 vestigation necessary to ascertain the veracity of any statement made on an application under this
 15 section.

16 [(7)] (8) The certification issued by the [department] city or county shall:

17 (a) Identify the property included in the certified vertical housing development project;

18 (b) Identify the number of equalized floors of residential housing in the project and include a
 19 description of the property of each equalized floor;

20 (c) Identify the number of equalized floors of low income residential housing in the project and
 21 include a description of the property of each equalized floor; and

22 (d) Contain any other information prescribed by the [department] city or county.

23 [(8)] (9) The determination of the [department] city or county to certify or deny certification is
 24 a discretionary determination. The determination is final and is not subject to judicial or adminis-
 25 trative review.

26 [(9)] (10) The [department] city or county may charge appropriate fees to offset the cost of ad-
 27 ministering the application and certification process under this section and any other related costs.

28 **SECTION 7.** ORS 307.861 is amended to read:

29 307.861. (1) Upon determining to certify a vertical housing development project **under ORS**
 30 **307.857**, the [Housing and Community Services Department] city or county shall send a copy of the
 31 certification to the county assessor of the county in which the project is to be located. **The certi-**
 32 **fication must be accompanied by a description of the property granted partial exemption**
 33 **under ORS 307.864.**

34 (2) At any time after certification and prior to the end of the exemption period, the
 35 [department] city or county may:

36 (a) Request documentation, undertake investigations or otherwise review and monitor the
 37 project to ensure ongoing compliance by project applicants and owners[; and].

38 (b) Undertake any remedial action that the [department] city or county determines to be nec-
 39 essary or appropriate to fulfill the purposes of ORS 307.841 to 307.867, including issuing a notice
 40 of decertification directing the county assessor to disqualify all or a portion of a project.

41 (3)(a) [The] A notice of decertification [notice] issued under subsection (2)(b) of this section
 42 shall identify:

43 (A) The property decertified from the vertical housing development project;

44 (B) The number of equalized floors that have ceased qualifying as residential housing for pur-
 45 poses of ORS 307.841 to 307.867;

1 (C) The number of equalized floors that have ceased qualifying as low income residential housing
2 for purposes of ORS 307.841 to 307.867;

3 (D) The remaining number of equalized floors of residential housing in the project and include
4 a description of the property of each remaining equalized floor; and

5 (E) The remaining number of equalized floors of low income residential housing in the project
6 and include a description of the property of each remaining equalized floor of low income residential
7 housing.

8 [(3)] (b) [A] **The** notice of decertification [*issued under subsection (2) of this section*] shall include
9 any other information prescribed by the [*department*] **city or county**.

10 [(4)] (c) The [*department*] **city or county** shall send copies of [a] **the** notice of decertification
11 [*issued under subsection (2) of this section*] to the property owner and the county assessor of the
12 county in which the property is located.

13 **SECTION 8.** ORS 307.864 is amended to read:

14 307.864. (1) For the first tax year in which, as of the assessment date, a vertical housing devel-
15 opment project is occupied or ready for occupancy following certification under ORS 307.857, and
16 for the next nine consecutive tax years:

17 (a) The property of the vertical housing development project, except for the land of the project,
18 shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other
19 than the districts that elected not to participate in the vertical housing development zone [*as de-*
20 *scribed in*] **pursuant to** ORS 307.844 (4), according to the following schedule and as identified in the
21 certification issued [*by the department*] under ORS 307.857 [(7)] (8):

22 (A) If the project consists of the equivalent of one equalized floor allocated to residential hous-
23 ing, the project shall be 20 percent exempt.

24 (B) If the project consists of the equivalent of two equalized floors allocated to residential
25 housing, the project shall be 40 percent exempt.

26 (C) If the project consists of the equivalent of three equalized floors allocated to residential
27 housing, the project shall be 60 percent exempt.

28 (D) If the project consists of the equivalent of four or more equalized floors allocated to resi-
29 dential housing, the project shall be 80 percent exempt.

30 (b) The land of the vertical housing development project shall be partially exempt from ad
31 valorem property taxes imposed by local taxing districts, other than the districts that elected not
32 to participate in the vertical housing development zone [*as described in*] **pursuant to** ORS 307.844
33 (4), in the same percentages determined under paragraph (a) of this subsection, for each equalized
34 floor allocated to low income residential housing, as identified in the certification issued [*by the*
35 *department*] under ORS 307.857 [(7)] (8).

36 (2) In order for the property of a vertical housing development project to receive the partial
37 property tax exemption described in subsection (1) of this section, the vertical housing development
38 project property owner, project applicant or other person responsible for the payment of property
39 taxes on the project must notify the [*Housing and Community Services Department*] **city or county**
40 that the project is occupied or ready for occupancy, and the [*department*] **city or county** must notify
41 the assessor of the county in which the project is located, in the manner set forth in ORS 307.512,
42 that the project is occupied or ready for occupancy and has been certified [*by the department*] under
43 ORS 307.857.

44 **SECTION 9.** ORS 307.866 is amended to read:

45 307.866. (1)(a) During the period in which property of a vertical housing development project

1 would otherwise be partially exempt under ORS 307.864 (1)(a), if all or a portion of the project has
 2 been decertified [*by the Housing and Community Services Department*] under ORS 307.861, the prop-
 3 erty is disqualified from exemption in proportion to the equivalent of each equalized floor that has
 4 ceased qualifying as residential housing, as set forth in the notice of decertification.

5 (b) During the period in which the land of a vertical housing development project would other-
 6 wise be partially exempt under ORS 307.864 (1)(b), if all or a portion of the project has been decer-
 7 tified [*by the Housing and Community Services Department*] under ORS 307.861, the land is
 8 disqualified from exemption in proportion to the equivalent number of equalized floors that have
 9 ceased qualifying as low income residential housing, as set forth in the notice of decertification.

10 (2) Notwithstanding ORS 307.864, there shall be added to the general property tax roll for the
 11 tax year next following decertification described in subsection (1) of this section, to be collected and
 12 distributed in the same manner as other real property tax, an amount equal to the difference be-
 13 tween the taxes assessed against the property and land granted exemption under ORS 307.864 and
 14 the taxes that would have been assessed against the property and land but for the exemption for
 15 each of the years, not to exceed the last 10 years, during which the property and land were exempt
 16 from taxation under ORS 307.864.

17 (3) Notwithstanding ORS 307.864, if, after a period of exemption under ORS 307.864 has termi-
 18 nated, the [*Housing and Community Services Department*] **city or county that designated the zone**
 19 **in which the project is located** discovers that the property or land of a vertical housing develop-
 20 ment project was granted exemption to which the project was not entitled, additional taxes may be
 21 collected as provided in subsection (2) of this section, except that the number of years for which the
 22 additional taxes may be collected shall be reduced by one year for each year that has elapsed since
 23 the year the property or land was last granted exemption, beginning with the [*oldest*] **earliest** year
 24 for which additional taxes are due.

25 (4) The assessment and tax rolls shall show potential additional tax liability for all property and
 26 land granted exemption under ORS 307.864.

27 (5) Additional taxes collected under this section shall be deemed to have been imposed in the
 28 year to which the additional taxes relate.

29 **SECTION 10.** ORS 307.867 is amended to read:

30 307.867. (1) [*Following vertical housing development zone designation under ORS 307.847, if the*
 31 *Housing and Community Services Department receives a request to terminate a vertical housing devel-*
 32 *opment zone from the applicant for zone designation under ORS 307.844, the department shall termi-*
 33 *nate the zone.*] **A city or county that designates a vertical housing development zone under**
 34 **ORS 307.844 may terminate the zone at any time.**

35 (2) The termination of a zone under this section does not affect the exemption [*of any property*]
 36 from tax under ORS 307.864 [*if an application for the exemption was approved*] **of any property of**
 37 **a vertical housing development project that was certified under ORS 307.857** prior to the
 38 [*zone*] **termination of the zone and that continues to qualify for the exemption at the time of**
 39 **the termination of the zone.**

40 **SECTION 11.** ORS 307.847 and 307.851 are repealed.

41 **SECTION 12.** (1) **The amendments to ORS 307.841 by section 1 of this 2017 Act apply to**
 42 **property tax years beginning on or after July 1, 2017.**

43 (2) **Section 5 of this 2017 Act, the amendments to ORS 307.841, 307.844, 307.854, 307.857,**
 44 **307.861, 307.864, 307.866 and 307.867 by sections 1 to 3 and 6 to 10 of this 2017 Act and the**
 45 **repeal of ORS 307.847 and 307.851 by section 11 of this 2017 Act become operative on January**

1 1, 2018.

2 **SECTION 13.** (1) Property that was constructed pursuant to a certification for a partial
3 property tax exemption under ORS 307.857 prior to the effective date of this 2017 Act shall
4 continue to receive the exemption according to the same schedule and subject to the dis-
5 qualification provisions of ORS 307.841 to 307.867 that were in effect and applied at the time
6 the vertical housing development project was certified for partial property tax exemption.

7 (2) If an application for certification was filed with the Housing and Community Services
8 Department prior to the effective date of this 2017 Act but not acted upon as of the effective
9 date of this 2017 Act, the Housing and Community Services Department shall forward the
10 application to the city or county, as applicable.

11 **SECTION 14.** Section 13, chapter 119, Oregon Laws 2005, as amended by section 4, chapter 507,
12 Oregon Laws 2015, is amended to read:

13 **Sec. 13.** (1) The Housing and Community Services Department may not issue a certification
14 under ORS 307.841 to 307.867 on or after January 1, [2026] 2018.

15 (2) A city or county may not issue a certification under ORS 307.841 to 307.867 on or after
16 January 1, 2026.

17 **SECTION 15.** This 2017 Act takes effect on the 91st day after the date on which the 2017
18 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

19