

# House Bill 3141

Sponsored by Representative BUEHLER

## 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**.

Requires Department of Revenue to establish program to identify taxpayers that are eligible for, but did not claim, earned income tax credit in preceding tax year and release to qualified nonprofit organization information that would enable qualified nonprofit organization to contact taxpayer, inform taxpayer of eligibility and assist taxpayer, if necessary, to apply for earned income tax credit.

Requires department by rule to specify criteria for qualifying nonprofit organization.

Requires qualified nonprofit organization that has entered into contract or agreement under terms of which nonprofit organization or any other party to contract or agreement will receive compensation from taxpayer or taxpayer's earned income tax credit to submit contract or agreement to department for review as condition of receiving information from department. Requires department to specify certain amendments to contract or agreement and requires qualified nonprofit organization to submit executed copy of contract or agreement for department to verify that amendments were incorporated.

Permits department to impose civil penalty in amount that does not exceed \$5,000 for each instance of violation of certain provisions of Act.

Applies to tax years beginning on or after January 1, 2017.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to information concerning eligible claimants for earned income tax credits; and prescribing  
3 an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 314.**

6 **SECTION 2. (1) The Department of Revenue shall:**

7 (a) **Establish a program to identify taxpayers who, during the preceding tax year, were**  
8 **eligible for, but did not claim, an earned income tax credit under ORS 315.266; and**

9 (b) **Release to a qualified nonprofit organization information that would enable the**  
10 **nonprofit organization to contact a taxpayer described in paragraph (a) of this subsection,**  
11 **inform the taxpayer of the taxpayer's eligibility for the earned income tax credit and assist**  
12 **the taxpayer, if necessary, to apply for the earned income tax credit. In releasing informa-**  
13 **tion under this paragraph, the department shall comply with ORS 314.835 and 314.840 and all**  
14 **applicable federal laws relating to taxpayer privacy.**

15 (2)(a) **The department by rule shall establish criteria for designating a nonprofit organ-**  
16 **ization as a qualified nonprofit organization for the purposes of this section. The criteria**  
17 **must require that to become a qualified nonprofit organization, the nonprofit organization,**  
18 **at a minimum, must demonstrate that:**

19 (A) **A primary purpose and policy of the nonprofit organization is educational outreach**  
20 **and assistance to low-income residents of this state;**

21 (B) **The nonprofit organization has a satisfactory record of integrity and responsibility**  
22 **toward the nonprofit organization's clients and the community in which the nonprofit or-**  
23 **ganization operates; and**

**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 (C) The nonprofit organization and all of the nonprofit organization's directors, officers  
2 and employees do not have a criminal record and have not been convicted of an offense that  
3 involves fraud or acted with an intent to defraud any person.

4 (b) The department shall issue a numbered certificate or other written evidence of the  
5 nonprofit organization's qualification and shall require the certificate or evidence before re-  
6 leasing information to the nonprofit organization under subsection (1)(b) of this section.

7 (3) If a qualified nonprofit organization has entered into a contract or agreement under  
8 the terms of which the nonprofit organization or another party to the contract or agreement  
9 may take as compensation for any information or assistance the nonprofit organization  
10 provided to a taxpayer a portion of any earned income tax credit that the taxpayer claims  
11 and receives, or any other payment or consideration from the taxpayer, the qualified  
12 nonprofit organization shall, as a condition of receiving information from the department:

13 (a) Submit the contract or agreement to the department for review; and

14 (b) Allow the department to specify amendments to the terms and conditions of the  
15 contract or agreement that are necessary to:

16 (A) Ensure compliance with ORS 314.835 and 314.840 and with all applicable federal laws  
17 relating to taxpayer privacy;

18 (B) Cap the amount of the compensation that the qualified nonprofit organization and  
19 any other party to the contract or agreement may receive from the taxpayer, or from the  
20 proceeds of the taxpayer's earned income tax credit, at an amount that is equivalent to not  
21 more than 10 percent of the taxpayer's state or federal earned income tax credit; and

22 (C) Require disclosure to the taxpayer of the terms of the compensation that the quali-  
23 fied nonprofit organization or any other party to the contract or agreement will receive in  
24 return for information or assistance to the taxpayer.

25 (4)(a) The department shall require a qualified nonprofit organization to submit an exe-  
26 cuted copy of the contract or agreement described in subsection (3) of this section to verify  
27 that the qualified nonprofit organization has incorporated any amendments that the depart-  
28 ment specified under subsection (3)(b) of this section.

29 (b) If a qualified nonprofit organization does not submit an executed copy of the contract  
30 or agreement under paragraph (a) of this subsection, the department may not release infor-  
31 mation to the qualified nonprofit organization.

32 (5) The department may impose a civil penalty under ORS 183.745 in an amount that does  
33 not exceed \$5,000 for each instance in which a qualified nonprofit organization or any party  
34 to a contract or agreement described in subsection (3) of this section:

35 (a) Fails to disclose the existence of, and submit to the department, the contract or  
36 agreement; or

37 (b) Defaults on a term or condition of the contract or agreement by:

38 (A) Using or releasing information the department disclosed to the qualified nonprofit  
39 organization in violation of ORS 314.835 or 314.840 or any applicable federal law relating to  
40 taxpayer privacy;

41 (B) Exceeding the cap imposed under subsection (3)(b)(B) of this section on compensation  
42 from a taxpayer or from the proceeds of the taxpayer's earned income tax credit; or

43 (C) Failing to disclose to a taxpayer the terms of the compensation that the qualified  
44 nonprofit organization and any party to the contract or agreement will receive from the  
45 taxpayer.

1       **(6) The department may adopt rules that are necessary to implement this section.**

2       **SECTION 3.** **Section 2 of this 2017 Act applies to tax years that begin on or after January**  
3 **1, 2017.**

4       **SECTION 4.** **(1) Section 2 of this 2017 Act becomes operative on January 1, 2018.**

5       **(2) The Department of Revenue may adopt rules and take any other action before the**  
6 **operative date specified in subsection (1) of this section that is necessary to enable the de-**  
7 **partment, on and after the operative date specified in subsection (1) of this section, to ex-**  
8 **ercise all of the duties, functions and powers conferred on the department by section 2 of**  
9 **this 2017 Act.**

10       **SECTION 5.** **This 2017 Act takes effect on the 91st day after the date on which the 2017**  
11 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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