

House Bill 3241

Sponsored by Representative MARSH

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**.

Includes single-family dwellings as qualifying property for purposes of local government programs for financing energy improvements and seismic rehabilitation. Provides that lien securing loan or financing entered into or facilitated with respect to single-family dwelling has priority over all other liens and encumbrances other than lien securing first mortgage loan.

A BILL FOR AN ACT

1
2 Relating to local government improvement financing programs for single-family residences; creating
3 new provisions; and amending ORS 223.001, 223.680 and 223.685.

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

5 **SECTION 1.** ORS 223.680 is amended to read:

6 223.680. (1) As used in this section:

7 (a) "Energy improvements" means energy efficiency and renewable energy improvements to
8 qualifying real property authorized by:

9 (A) A local government implementing a program established under this section; or

10 (B) The State Department of Energy for a loan issued under subsection (10) of this section to
11 a local government that establishes a program in cooperation with a local government described in
12 subparagraph (A) of this paragraph.

13 (b) "Local government" means cities and counties.

14 (c) "Qualifying real property" means **single-family dwellings**, multifamily residential dwellings
15 or commercial or industrial buildings that the local government has determined can be benefited by
16 energy improvements.

17 (d) "**Single-family dwelling**" means a **one-unit to four-unit residence, including a detached**
18 **or semi-detached residence or a townhome.**

19 (2)(a) Subject to subsection (3) of this section, a local government may establish a program to
20 assist owners of record of qualifying real property in financing cost-effective energy improvements
21 to the qualifying real property.

22 (b) A program established pursuant to this subsection may provide for the local government to:

23 (A) Make loans to owners financed with the net proceeds and interest earnings of revenue bonds
24 authorized by subsection (9) of this section;

25 (B) Facilitate private financing by the owners; or

26 (C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under
27 subparagraph (B) of this paragraph.

28 (3) Before establishing a program under this section, the local government shall provide notice
29 to utilities that distribute electric energy or natural gas within the areas in which the local gov-
30 ernment will operate the program.

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 (4) A local government that establishes a program under this section may:

2 (a) Require performance of an energy audit on the qualifying real property before the local
3 government approves a loan for energy improvements to the property;

4 (b) Impose requirements intended to ensure that the costs of the improvements financed under
5 this section do not exceed the cumulative energy cost savings of the improvements over the useful
6 life of the improvements; and

7 (c) Impose requirements and conditions on loans or financing agreements that are designed to
8 ensure timely repayment.

9 (5)(a) If the owner of record of qualifying real property requests financing pursuant to a program
10 established under this section, subject to subsection (6) of this section, the local government imple-
11 menting the program may:

12 (A) Enter into a loan agreement with the owner, and any other person benefited by the loan;
13 or

14 (B) Facilitate a financing agreement for the owner, and any other person benefited by the fi-
15 nancing.

16 (b) A loan agreement or financing agreement entered into pursuant to paragraph (a) of this
17 subsection must be in a principal amount sufficient to pay:

18 (A) The costs of energy improvements the local government determines will benefit the qualify-
19 ing real property and the borrowers;

20 (B) The costs of the energy audit; and

21 (C) The costs and reserves of the program.

22 (c) A local government acting pursuant to paragraph (a) of this subsection may:

23 (A) If the local government makes a loan, charge the borrower an interest rate on the principal
24 amount that is sufficient to pay the financing costs of the loan program, including loan delinquen-
25 cies; and

26 (B) Charge periodic fees to pay for program costs.

27 (6) A local government may not enter into a loan agreement, or facilitate a financing agreement,
28 under subsection (5) of this section unless the owner has:

29 (a) Provided written notice to all mortgagees of the qualifying real property that the owner in-
30 tends to enter into a loan agreement or financing agreement under this section; and

31 (b) Received written consent from the mortgagees stating that the loan agreement or financing
32 agreement entered into under this section does not constitute an event of default or give rise to any
33 remedies under the terms of the mortgage loan agreements.

34 (7) The local government implementing a program established under this section may:

35 (a)(A) Secure a loan or financing with a lien on the benefited qualifying real property in the
36 manner and with the same priority as a lien for assessments for local improvements authorized by
37 ORS 223.393.

38 **(B) Notwithstanding subparagraph (A) of this paragraph, a lien securing a loan or fi-**
39 **ncancing entered into or facilitated under this section with respect to a single-family dwelling**
40 **shall have priority over all other liens and encumbrances on the single-family dwelling other**
41 **than a lien securing a first mortgage loan.**

42 (b) Assess the benefited qualifying real property for the amounts due under a loan agreement
43 or financing agreement.

44 (c) Enforce a lien and collect an assessment authorized by this section as provided in ORS
45 223.505 to 223.650.

1 (d) Secure a loan or financing in any other manner that the local government determines is
2 reasonable.

3 (8)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (7) of this
4 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to
5 the county assessor of each county in which benefited qualifying real property is located.

6 (b) If the assessments are certified as provided in this subsection, the county assessor shall:

7 (A) Enter the assessment upon the county assessment roll against the property described in the
8 certificate, in the manner that other local government assessments are entered;

9 (B) Collect, account for and enforce the assessments in the manner that local government taxes
10 are collected, accounted for and enforced; and

11 (C) Transfer, as provided by law, the assessments collected to the local government that imposed
12 the assessment.

13 (9) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance the costs
14 of a program established under this section, including the costs of making loans for energy im-
15 provements.

16 (10) The State Department of Energy may lend money under the provisions of ORS 470.060 to
17 470.080 and 470.090 to a local government that establishes a program under this section in cooper-
18 ation with a local government implementing a program under this section.

19 **SECTION 2.** ORS 223.685 is amended to read:

20 223.685. (1) As used in this section:

21 (a) "Local government" means cities and counties.

22 (b) "Qualifying real property" means **single-family dwellings**, multifamily residential dwellings
23 or commercial or industrial buildings that the local government has determined can be benefited by
24 seismic rehabilitation.

25 (c) "Seismic rehabilitation" means improvements to qualifying real property that are:

26 (d) **"Single-family dwelling" means a one-unit to four-unit residence, including a detached**
27 **or semi-detached residence or a townhome.**

28 (A) Intended to reduce or prevent harm to persons and property due to the effects of seismic
29 activity on the qualifying real property; and

30 (B) Authorized by a local government implementing a program established under this section.

31 (2)(a) A local government may establish a program to assist owners of record of qualifying real
32 property in financing cost-effective seismic rehabilitation of the qualifying real property.

33 (b) A program established pursuant to this subsection may provide for the local government to:

34 (A) Make loans to owners financed with the net proceeds and interest earnings of revenue bonds
35 authorized by subsection (8) of this section;

36 (B) Facilitate private financing by the owners; or

37 (C) Make loans under subparagraph (A) of this paragraph and facilitate private financing under
38 subparagraph (B) of this paragraph.

39 (3) A local government that establishes a program under this section may:

40 (a) Impose requirements intended to ensure that the loan or financing is consistent with the
41 purposes of the program; and

42 (b) Impose requirements and conditions on loans or financing agreements that are designed to
43 ensure timely repayment.

44 (4)(a) If the owner of record of qualifying real property requests financing pursuant to a program
45 established under this section, subject to subsection (5) of this section, the local government imple-

1 mentoring the program may:

2 (A) Enter into a loan agreement with the owner and any other person benefited by the loan; or

3 (B) Facilitate a financing agreement for the owner and any other person benefited by the fi-
4 nancing agreement.

5 (b) A local government acting pursuant to paragraph (a) of this subsection may:

6 (A) If the local government makes a loan, charge the borrower an interest rate on the principal
7 amount that is sufficient to pay the financing costs of the loan program, including loan delinquen-
8 cies; and

9 (B) Charge periodic fees to pay for program costs.

10 (5) A local government may not enter into a loan agreement, or facilitate a financing agreement,
11 under subsection (4) of this section unless the owner has:

12 (a) Provided written notice to all mortgagees of the qualifying real property that the owner in-
13 tends to enter into a loan agreement or financing agreement under this section; and

14 (b) Received written consent from the mortgagees stating that the loan agreement or financing
15 agreement entered into under this section does not constitute an event of default or give rise to any
16 remedies under the terms of the mortgage loan agreements.

17 (6) The local government implementing a program established under this section may:

18 (a)(A) Secure a loan or financing with a lien on the benefited qualifying real property in the
19 manner and with the same priority as a lien for assessments for local improvements authorized by
20 ORS 223.393.

21 **(B) Notwithstanding subparagraph (A) of this paragraph, a lien securing a loan or fi-**
22 **ncancing entered into or facilitated under this section with respect to a single-family dwelling**
23 **shall have priority over all other liens and encumbrances on the single-family dwelling other**
24 **than a lien securing a first mortgage loan.**

25 (b) Assess the benefited qualifying real property for the amounts due under a loan agreement
26 or financing agreement.

27 (c) Enforce a lien and collect an assessment authorized under this section as provided in ORS
28 223.505 to 223.650.

29 (d) Secure a loan or financing in any other manner that the local government determines is
30 reasonable.

31 (7)(a) In lieu of enforcing liens and collecting assessments as provided in subsection (6) of this
32 section, a local government may certify the assessment, in the manner provided in ORS 310.060, to
33 the county assessor of each county in which benefited qualifying real property is located.

34 (b) If the assessments are certified as provided in this subsection, the county assessor shall:

35 (A) Enter the assessment upon the county assessment roll against the property described in the
36 certificate, in the manner that other local government assessments are entered;

37 (B) Collect, account for and enforce the assessments in the manner that local government taxes
38 are collected, accounted for and enforced; and

39 (C) Transfer, as provided by law, the assessments collected to the local government that imposed
40 the assessment.

41 (8) A local government may issue revenue bonds pursuant to ORS 287A.150 to finance the costs
42 of a program established under this section, including the costs of making loans for seismic reha-
43 bilitation.

44 **SECTION 3.** ORS 223.001 is amended to read:

45 223.001. As used in ORS 223.112 to 223.132, 223.205 to 223.295, 223.297 to 223.314, 223.317 to

1 223.327, 223.387 to 223.399, 223.405 to 223.485, 223.505 to 223.595, 223.605 to 223.650, [223.680,
 2 223.705 to 223.755, 223.765, 223.770, 223.775 and 223.805 to 223.845, unless the context requires oth-
 3 erwise:

4 (1) "Actual cost" has the meaning given the term under ORS 310.140.

5 (2) "Capital construction project" means a project for "capital construction," as defined under
 6 ORS 310.140.

7 (3)(a) "Estimated assessment" means, with respect to each property to be assessed in connection
 8 with a local improvement, the total assessment that, at the time of giving notice of the assessment
 9 and the right to object or remonstrate, the local government estimates will be levied against the
 10 property following completion of the local improvement. The estimate shall be based on the local
 11 government's estimate at that time of the actual costs of the local improvement and the proposed
 12 formula for apportioning the actual costs to the property.

13 (b) "Estimated assessment" shall be determined by:

14 (A) Excluding from estimated actual costs the estimated financing costs associated with any
 15 bonds issued to accommodate the payment of the assessment in installments; and

16 (B) Including in estimated actual costs the estimated financing costs associated with interim fi-
 17 nancing of the local improvement.

18 (4) "Final assessment" means, with respect to each property to be assessed in connection with
 19 a local improvement, the total assessment levied against the property following completion of the
 20 local improvement. The total assessment shall be based on the actual costs of the local improvement
 21 and the formula for apportioning the actual costs to the property.

22 (5)(a) "Financing" means all costs necessary or attributable to acquiring and preserving interim
 23 or permanent financing of a local improvement.

24 (b) The costs of financing may include the salaries, wages and benefits payable to employees of
 25 the local government to the extent the same are reasonably allocable to the work or services per-
 26 formed by the employees in connection with the financing of a local improvement or any part
 27 thereof. However, as a condition to inclusion of any salaries, wages or benefits payable to employees
 28 of a local government as financing costs of a local improvement or any part thereof, the local gov-
 29 ernment shall establish a record keeping system to track the actual work done or services performed
 30 by each employee on or in connection with such local improvement.

31 (c) Financing costs that are to be incurred after the levy of a final assessment may be included
 32 in the final assessment based on the local government's reasonable estimate of the financing costs
 33 if the local government first documents the basis for the estimate and makes the documentation
 34 available to interested persons on request.

35 (6) "Governing body" means the council, commission, board or other controlling body, however
 36 designated, in which the legislative powers of a local government are vested.

37 (7) "Installment application" means an application filed by a property owner to have a final as-
 38 sessment paid in installments over a period of years.

39 (8) "Local government" means a local government as defined in ORS 174.116 that has authority
 40 to undertake the acquisition, construction, reconstruction, repair, betterment or extension of a local
 41 improvement.

42 (9) "Local improvement" has the meaning given the term under ORS 310.140.

43 (10) "Lot" means a lot, block or parcel of land.

44 (11) "Owner" means the owner of the title to real property or the contract purchaser of real
 45 property of record as shown on the last available complete assessment roll in the office of the

1 county assessor.

2 (12) "Recorder" means the auditor, recorder, clerk or other person or officer of a local govern-
3 ment serving as clerk of the local government or performing the clerical work of the local govern-
4 ment, or other official or employee as the governing body of a local government shall designate to
5 act as recorder.

6 (13) "Structure" has the meaning given the term under ORS 310.140.

7 (14) "Treasurer" means the elected or appointed official of a local government, however desig-
8 nated, charged by law with the responsibility for acting as custodian of and investment officer for
9 the public moneys of the local government.

10 **SECTION 4. The amendments to ORS 223.680 and 223.685 by sections 1 and 2 of this 2017**
11 **Act apply to liens arising under ORS 223.680 and 223.685 on or after the effective date of this**
12 **2017 Act.**

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