

Enrolled Senate Bill 310

Sponsored by Senators HASS, BOQUIST; Representatives BUEHLER, STARK (Presession filed.)

CHAPTER

AN ACT

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

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

SECTION 1. ORS 307.841 is amended to read:

307.841. As used in ORS 307.841 to 307.867:

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

(2) "Displacement" means a situation in which a household is forced to move from its current residence due to conditions that affect the residence or the immediate surroundings of the residence and that:

(a) A reasonable person would consider to be beyond the household's ability to prevent or control;

(b) Occur despite the household's having met all previously imposed conditions of occupancy; and

(c) Make continued occupancy of the residence by the household unaffordable, hazardous or impossible.

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

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

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

(5) "Nonresidential use" means any use that is not exclusively residential use.

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

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

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

[9] (8) “Vertical housing development zone” or “zone” means an area that has been designated a vertical housing development zone under ORS [307.847] **307.844**.

SECTION 2. ORS 307.844 is amended to read:

307.844. (1)(a) A city may [apply to the Housing and Community Services Department for designation of an] **designate an** area within the city as a vertical housing development zone.

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

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

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

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

(5) A city or county must consider the potential for displacement of households within a proposed vertical housing development zone before designating the zone.

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

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

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

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

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

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

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

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

[6] *The application shall:*

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

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

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

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

[(7) The applicant shall submit to the department, within 30 days following the date the application is filed with the department, a list of the local taxing districts that elected not to participate in the vertical housing development zone.]

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

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

SECTION 3. ORS 307.854 is amended to read:

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

(2) The development of projects may be undertaken by the city or county independently, jointly or in partnership with a private entity or may be undertaken by a private entity acting independently.

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

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

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

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

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

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

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

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

SECTION 6. ORS 307.857 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(6)] (7) The [department] **city or county** may request any documentation or undertake any investigation necessary to ascertain the veracity of any statement made on an application under this section.

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

- (a) Identify the property included in the certified vertical housing development project;
- (b) Identify the number of equalized floors of residential housing in the project and include a description of the property of each equalized floor;
- (c) Identify the number of equalized floors of low income residential housing in the project and include a description of the property of each equalized floor; and
- (d) Contain any other information prescribed by the [department] **city or county**.

[(8)] (9) The determination of the [department] **city or county** to certify or deny certification is a discretionary determination. The determination is final and is not subject to judicial or administrative review.

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

SECTION 7. ORS 307.861 is amended to read:

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

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

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

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

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

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

(B) The number of equalized floors that have ceased qualifying as residential housing for purposes of ORS 307.841 to 307.867;

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

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

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

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

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

SECTION 8. ORS 307.864 is amended to read:

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

(a) The property of the vertical housing development project, except for the land of the project, shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone [as de-

scribed in] pursuant to ORS 307.844 (4), according to the following schedule and as identified in the certification issued [by the department] under ORS 307.857 [(7)] (8):

(A) If the project consists of the equivalent of one equalized floor allocated to residential housing, the project shall be 20 percent exempt.

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

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

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

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

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

SECTION 9. ORS 307.866 is amended to read:

307.866. (1)(a) During the period in which property of a vertical housing development project would otherwise be partially exempt under ORS 307.864 (1)(a), if all or a portion of the project has been decertified [by the Housing and Community Services Department] under ORS 307.861, the property is disqualified from exemption in proportion to the equivalent of each equalized floor that has ceased qualifying as residential housing, as set forth in the notice of decertification.

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

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

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

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

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

SECTION 10. ORS 307.867 is amended to read:

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

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

SECTION 11. ORS 307.847 and 307.851 are repealed.

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

(2) Section 5 of this 2017 Act, the amendments to ORS 307.841, 307.844, 307.854, 307.857, 307.861, 307.864, 307.866 and 307.867 by sections 1 to 3 and 6 to 10 of this 2017 Act and the repeal of ORS 307.847 and 307.851 by section 11 of this 2017 Act become operative on January 1, 2018.

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

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

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

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

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

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

Passed by Senate March 2, 2017

Repassed by Senate June 7, 2017

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2017

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State