

Requested by Representative SMITH DB

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2377**

1 On page 1 of the printed bill, delete lines 4 through 22 and delete pages  
2 2 through 6 and insert:

3 **“SECTION 1. (1) As used in this section and section 2 of this 2017**  
4 **Act, ‘eligible rental property’ means newly rehabilitated or con-**  
5 **structed multiunit rental housing.**

6 **“(2)(a) The governing body of a city or county may adopt an ordi-**  
7 **nance or resolution granting a property tax exemption for eligible**  
8 **rental property located within the boundaries of the city or county,**  
9 **respectively.**

10 **“(b) The terms of the exemption must conform to the provisions**  
11 **of this section and section 2 of this 2017 Act.**

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

14 **“(a) The rehabilitation or construction is completed after the ordi-**  
15 **nance or resolution has been adopted; and**

16 **“(b) The first assessment year to which the application filed under**  
17 **section 2 of this 2017 Act relates is the first assessment year that be-**  
18 **gins after the eligible rental property is first offered for rent for resi-**  
19 **dential occupancy upon completion of the rehabilitation or**  
20 **construction.**

21 **“(4) An ordinance or resolution adopted pursuant to this section**

1 must establish a schedule in which the number of consecutive property  
2 tax years for which the exemption is granted increases directly with  
3 the percentage of units constituting the eligible rental property that  
4 are rented at monthly rates that are affordable to households with an  
5 annual income at or below 80 percent of the area median income for  
6 up to a maximum of 10 years.

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

14 “(b) If the ordinance or resolution takes effect, the exemption shall  
15 apply to all property tax levies of all taxing districts in which eligible  
16 rental property is located.

17 “(c) The decisions of the taxing districts under paragraph (a) of this  
18 subsection may not be changed but are not binding with respect to an  
19 ordinance or resolution adopted pursuant to subsection (6) of this  
20 section or a new ordinance or resolution adopted pursuant to sub-  
21 section (2) of this section.

22 “(d) All eligible rental property shall be granted exemption under  
23 this section on the same terms provided in the ordinance or resolution  
24 adopted or amended by the city or county and in effect on the date the  
25 application is submitted under section 2 of this 2017 Act.

26 “(6)(a) A city or county may adopt at any time an ordinance or re-  
27 solution amending the terms of an exemption granted pursuant to this  
28 section, subject to approval of the taxing districts under subsection  
29 (5)(a) of this section, or terminating the exemption.

30 “(b) Notwithstanding an ordinance or resolution adopted under

1 paragraph (a) of this subsection, eligible rental property that has been  
2 granted an exemption pursuant to this section shall continue to re-  
3 ceive the exemption under the terms in effect at the time the ex-  
4 emption was first granted.

5 “(7) As soon as practicable after January 1 of each year, each  
6 assessor of a county in which the governing body of the county or a  
7 city has adopted an ordinance or resolution under this section shall:

8 “(a) Determine the area median income for the county or city, as  
9 applicable;

10 “(b) Notify each owner or lessee of eligible rental property granted  
11 exemption pursuant to the ordinance or resolution for the immediately  
12 preceding property tax year of the determination; and

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

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

18 “(b) If eligible rental property is located in a city and county each  
19 of which has adopted an ordinance or resolution under section 1 of this  
20 2017 Act, the applicant shall elect the exemption the applicant wishes  
21 to receive for the eligible rental property by submitting the application  
22 to the city or the county, as applicable.

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

25 “(d) An application must be accompanied by an application fee fixed  
26 by the city or county, as applicable, in an amount determined to  
27 compensate the city or county for the actual costs of processing the  
28 application.

29 “(2)(a) An application must be submitted for review to the city or  
30 county, as applicable, on or before March 1 preceding the property tax

1 year to which the application relates.

2 “(b) Notwithstanding paragraph (a) of this subsection, an applica-  
3 tion may be filed under this section for the current property tax year:

4 “(A) On or before December 31 of the property tax year, if the ap-  
5 plication is accompanied by a late filing fee of the greater of \$200 or  
6 one-tenth of one percent of the real market value as of the most re-  
7 cent assessment date of the eligible rental property to which the ap-  
8 plication relates.

9 “(B) On or before April 1 of the property tax year, if the application  
10 is accompanied by a late filing fee of \$200 and the applicant demon-  
11 strates good and sufficient cause, as defined in ORS 307.162, for failing  
12 to file a timely application or is a first-time filer, as defined in ORS  
13 307.162, of an application under this subsection.

14 “(c)(A) An application may be filed as provided in paragraph (b) of  
15 this subsection notwithstanding that there are no grounds for hard-  
16 ship as required for late filing under ORS 307.475.

17 “(B) A late filing fee collected under paragraph (b) of this sub-  
18 section must be deposited in the general fund of the city or county,  
19 as applicable.

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

23 “(A) Whether the property to which the application relates is eligi-  
24 ble rental property located within the boundaries of the city or county;

25 “(B) The date on which the rehabilitation or construction of the  
26 eligible rental property was or will be completed;

27 “(C) The date on which the eligible rental property was first offered  
28 for rent for residential occupancy; and

29 “(D) The rent charged for each unit to which the application re-  
30 lates.

1       **“(b) If any eligibility determination made under this subsection**  
2 **renders the property ineligible for the exemption, the application shall**  
3 **be rejected and the rejection may not be appealed.**

4       **“(4)(a) The owner or lessee of eligible rental property granted ex-**  
5 **emption for the current property tax year must submit an application**  
6 **under subsection (2) of this section for each subsequent property tax**  
7 **year for which the eligible rental property remains eligible under sec-**  
8 **tion 1 (4) of this 2017 Act.**

9       **“(b) If any eligibility determination made under this subsection**  
10 **renders the eligible rental property ineligible for the exemption, the**  
11 **application shall be rejected.**

12       **“(5) If the property qualifies for the exemption under subsection (3)**  
13 **or (4) of this section and the application meets the requirements of the**  
14 **ordinance or resolution of the city or county, the governing body shall**  
15 **adopt a resolution:**

16       **“(a) Approving the application; and**

17       **“(b) Notifying the assessor of the county in which the eligible rental**  
18 **property is located of the approval and including with the notification**  
19 **all information necessary for the assessor to perform the assessor’s**  
20 **duties with respect to the eligible rental property.**

21       **“SECTION 3. (1) Sections 1 and 2 of this 2017 Act are repealed on**  
22 **January 2, 2027.**

23       **“(2) Notwithstanding the date specified in subsection (1) of this**  
24 **section, eligible rental property that is granted exemption under an**  
25 **ordinance or resolution adopted pursuant to section 1 of this 2017 Act**  
26 **before the date specified in subsection (1) of this section shall continue**  
27 **to receive the exemption under the provisions of the ordinance or re-**  
28 **solution for the period of time for which the exemption was granted.**

29       **“SECTION 4. (1) As used in sections 4 to 6 of this 2017 Act:**

30       **“(a)(A) ‘Eligible costs’ means the costs of acquisition, finance costs,**

1 permit costs and construction costs with respect to eligible residential  
2 property that in total equal not less than \$100 and not more than \$120  
3 per square foot of the eligible residential property.

4 “(B) The dollar amounts in subparagraph (A) of this paragraph shall  
5 be adjusted annually by multiplying the amounts by the percentage,  
6 if any, by which the monthly averaged U.S. City Average Consumer  
7 Price Index for the 12 consecutive months ending on the immediately  
8 preceding December 31 exceeds the monthly averaged U.S. City Aver-  
9 age Consumer Price Index for the 12 consecutive months ending on the  
10 next preceding December 31.

11 “(b) ‘Eligible residential property’ means one or more newly con-  
12 structed single-family dwelling units located in this state that are sold  
13 for a qualified price.

14 “(c) ‘Qualified price’ means a price that is affordable to a household  
15 with an annual income of between 80 and 100 percent of area median  
16 income.

17 “(d) ‘Qualified purchaser’ means an individual whose household has  
18 an annual income of between 80 and 100 percent of area median in-  
19 come.

20 “(e) ‘Qualified reseller’ means a qualified purchaser who engages in  
21 a transaction to resell the eligible residential property owned by the  
22 qualified purchaser.

23 “(f) For purposes of earning a tax credit under this section, ‘tax-  
24 payer’ includes pass-through and tax-exempt entities.

25 “(g) ‘U.S. City Average Consumer Price Index’ means the U.S. City  
26 Average Consumer Price Index for All Urban Consumers (All Items)  
27 as published by the Bureau of Labor Statistics of the United States  
28 Department of Labor.

29 “(2) A credit is allowed against the taxes otherwise due under ORS  
30 316, or, if the taxpayer is a corporation, under ORS chapter 317 or 318,

1 for eligible residential property for which a certificate of eligibility has  
2 been issued under section 5 of this 2017 Act.

3 “(3) The credit shall be allowed for the first tax year of the taxpayer  
4 that begins after the taxpayer has entered into a contract of sale with  
5 a qualified purchaser who will occupy the eligible residential property  
6 as a single-family dwelling that is the qualified purchaser’s primary  
7 residence.

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

10 “(a) 50 percent of the eligible costs incurred by the taxpayer with  
11 respect to the eligible residential property; and

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

14 “(5) Any tax credit otherwise allowable under this section that is  
15 not used by the taxpayer in the tax year described in subsection (3)  
16 of this section may be carried forward and offset against the  
17 taxpayer’s tax liability for the next succeeding tax year. Any credit  
18 remaining unused in the next succeeding tax year may be carried  
19 forward and used in the second tax year, and any credit not used in  
20 the second succeeding tax year may be carried forward and used in the  
21 third succeeding tax year, but may not be carried forward for any  
22 succeeding tax year.

23 “(6) The credit allowed under this section is not in lieu of any de-  
24 preciation or amortization deduction to which the taxpayer otherwise  
25 may be entitled under ORS chapter 316, 317 or 318 for the tax year.

26 “(7) The taxpayer’s adjusted basis for determining gain or loss may  
27 not be further decreased by any amount of credit allowed under this  
28 section.

29 “(8)(a) A nonresident shall be allowed the credit under this section  
30 in the proportion provided in ORS 316.117.

1       **“(b) If a change in the status of a taxpayer from resident to non-**  
2 **resident or from nonresident to resident occurs, the credit allowed**  
3 **under this section shall be determined in a manner consistent with**  
4 **ORS 316.117.**

5       **“(c) If a change in the taxable year of a taxpayer occurs as de-**  
6 **scribed in ORS 314.085, or if the Department of Revenue terminates the**  
7 **taxpayer’s taxable year under ORS 314.440, the credit allowed under**  
8 **this section shall be prorated or computed in a manner consistent with**  
9 **ORS 314.085.**

10       **“(9) The total credits allowed to all taxpayers in any tax year under**  
11 **this section may not exceed \$10 million. A partial credit may be al-**  
12 **lowed under section 5 of this 2017 Act in order to bring the total of all**  
13 **credits allowed to \$10 million.**

14       **“(10)(a) Except as provided in paragraphs (b) and (c) of this sub-**  
15 **section, a tax credit allowed under this section may not be sold or**  
16 **transferred.**

17       **“(b) Tax credits allowed under this section that a partnership, lim-**  
18 **ited liability company, S corporation or other pass-through entity is**  
19 **entitled to claim may be allocated to the partners, members or**  
20 **shareholders of the entity for their direct use in accordance with the**  
21 **provisions of any agreement among the partners, members or share-**  
22 **holders.**

23       **“(c)(A) All or any portion of a tax credit allowed under this section**  
24 **that a nonprofit corporation, governmental entity or other tax-exempt**  
25 **entity is entitled to claim may be transferred to a taxpayer subject to**  
26 **tax under ORS chapter 316, 317 or 318.**

27       **“(B) A tax credit that is transferrable under this paragraph may**  
28 **be transferred on or before the date on which the return is due for the**  
29 **tax year in which the credit may first be claimed. After that date,**  
30 **no portion of a credit allowed under this section may be transferred.**



1       “(C) To transfer the tax credit, the taxpayer that earned and will  
2 transfer the credit and the transferee that will claim the credit shall,  
3 on or before the date prescribed in subparagraph (B) of this paragraph,  
4 jointly file a notice of tax credit transfer with the Department of  
5 Revenue. The notice must be given on a form prescribed by the de-  
6 partment that contains all of the following:

7       “(i) The name and address of the transferor and transferee;

8       “(ii) The amount of the tax credit that is being transferred;

9       “(iii) The amount of the tax credit that is being retained by the  
10 transferor; and

11       “(iv) Any other information required by the department.

12       “(D) The Department of Revenue shall adopt rules establishing  
13 procedures for the transfer of tax credits under this paragraph.

14       “SECTION 5. (1) In order to receive a tax credit under section 4 of  
15 this 2017 Act, a taxpayer must submit to the Housing and Community  
16 Services Department on a form prescribed by the department a claim  
17 with respect to each eligible residential property for which a credit is  
18 claimed.

19       “(2) The claim must contain:

20       “(a) Evidence showing:

21       “(A) That the property is eligible residential property;

22       “(B) That the taxpayer submitting the claim has entered into a  
23 contract of sale with a qualified purchaser for the eligible residential  
24 property;

25       “(C) That the taxpayer notified the qualified purchaser in writing  
26 of the provisions of section 6 of this 2017 Act before the contract of  
27 sale was executed and that the qualified purchaser signed the notice;  
28 and

29       “(D) The eligible costs for the eligible residential property; and

30       “(b) Any other information the department may require.

1       “(3)(a) If the department determines that the eligible residential  
2 property does not meet all the requirements under section 4 of this  
3 2017 Act or this section, the department shall deny the claim.

4       “(b) If the department determines that the eligible residential  
5 property meets all the requirements under section 4 of this 2017 Act  
6 and this section, the department shall issue to the taxpayer a certifi-  
7 cate of eligibility for the tax credit allowable under section 4 of this  
8 2017 Act. The certificate shall state the approved amount of eligible  
9 costs for the eligible residential property.

10       “(4) At the conclusion of each calendar year, the department shall  
11 send a list of the names, addresses and taxpayer identification num-  
12 bers of taxpayers to whom a certificate of eligibility has been issued  
13 under this section during the calendar year, along with approved  
14 amounts of eligible costs for each eligible residential property, to the  
15 Department of Revenue.

16       “(5) Notwithstanding that a certificate of eligibility has been issued  
17 to a taxpayer under this section, the Department of Revenue may  
18 disallow, in whole or in part, a claim for credit under section 4 of this  
19 2017 Act upon the department’s determination that under the pro-  
20 visions of section 4 of this 2017 Act the taxpayer is not entitled to the  
21 credit or is only entitled to a portion of the amount claimed.

22       “SECTION 6. (1) A qualified reseller may resell an eligible residen-  
23 tial property only to a qualified purchaser.

24       “(2) The qualified reseller may resell the eligible residential prop-  
25 erty only at or below the qualified price for which the qualified reseller  
26 purchased the eligible residential property, increased by three percent  
27 for each year that the qualified reseller has owned the eligible resi-  
28 dential property.

29       “(3)(a) Notwithstanding ORS 205.130, a county clerk may not record  
30 or cause to be recorded an instrument conveying or contracting to

1 convey fee title to eligible residential property unless the instrument  
2 is accompanied by documentary evidence showing that the consider-  
3 ation for the transfer was not greater than the qualified price or the  
4 amount determined under subsection (2) of this section, as applicable.

5 “(b) Upon recording the instrument, the county clerk shall make a  
6 notation as a public record that the eligible residential property is  
7 subject to the provisions of this section.

8 “(4) Subsections (1) to (3) of this section apply to an eligible resi-  
9 dential property only for the period of 11 years beginning on the date  
10 on which the contract of sale with the first qualified purchaser to own  
11 the property is executed.

12 “(5) A qualified purchaser who purchases eligible residential prop-  
13 erty from a qualified reseller for a purchase price in excess of the  
14 amount determined under subsection (2) of this section may bring suit  
15 in the circuit court of the county in which the eligible residential  
16 property is located to recover the amount of the excess. The suit must  
17 be filed within two years after the date on which the contract of sale  
18 was executed.

19 **“SECTION 7. (1) Sections 4 to 6 of this 2017 Act are repealed on**  
20 **January 2, 2027.**

21 “(2) Notwithstanding the date specified in subsection (1) of this  
22 section:

23 “(a) A taxpayer allowed a credit under section 4 of this 2017 Act  
24 before the date specified in subsection (1) of this section may carry  
25 unused portions of the credit forward as provided under section 4 (5)  
26 of this 2017 Act.

27 “(b) Section 6 of this 2017 Act applies to the resale of eligible resi-  
28 dential property first purchased before the date specified in subsection  
29 (1) of this section for the 11-year period specified in section 6 of this  
30 2017 Act.

