

Requested by JOINT COMMITTEE ON TAX CREDITS

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2066**

1 In line 2 of the printed A-engrossed bill, delete “316.824;” and insert
2 “315.141, 315.144, 317.090 and 317.097 and sections 21 and 30, chapter 913,
3 Oregon Laws 2009, and section 45, chapter 701, Oregon Laws 2015;”.

4 Delete lines 5 through 23 and insert:
5

6 **“RESERVATION ENTERPRISE ZONES**
7

8 **“SECTION 1.** Section 21, chapter 913, Oregon Laws 2009, as amended by
9 section 28, chapter 76, Oregon Laws 2010, is amended to read:

10 **“Sec. 21.** A credit may not be claimed under ORS 285C.309 for tax years
11 beginning on or after January 1, [2018] **2028.**

12 **“SECTION 2. ORS 285C.309 is added to and made a part of ORS**
13 **chapter 315.**

14
15 **“AFFORDABLE HOUSING LENDERS**
16

17 **“SECTION 3.** Section 30, chapter 913, Oregon Laws 2009, as amended by
18 section 1, chapter 475, Oregon Laws 2011, is amended to read:

19 **“Sec. 30.** The Housing and Community Services Department may not is-
20 sue a certificate under ORS 317.097 on or after January 1, [2020] **2026.**

21 **“SECTION 4.** ORS 317.097, as amended by section 23, chapter 33, Oregon

1 Laws 2016, is amended to read:

2 “317.097. (1) As used in this section:

3 “(a) ‘Annual rate’ means the yearly interest rate specified on the note,
4 and not the annual percentage rate, if any, disclosed to the applicant to
5 comply with the federal Truth in Lending Act.

6 “(b) ‘Finance charge’ means the total of all interest, loan fees, interest
7 on any loan fees financed by the lending institution, and other charges re-
8 lated to the cost of obtaining credit.

9 “(c) ‘Lending institution’ means any insured institution, as that term is
10 defined in ORS 706.008, any mortgage banking company that maintains an
11 office in this state or any community development corporation that is or-
12 ganized under the Oregon Nonprofit Corporation Law.

13 “(d) ‘Manufactured dwelling park’ has the meaning given that term in
14 ORS 446.003.

15 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from in-
16 come taxes under section 501(c)(3) or (4) of the Internal Revenue Code as
17 amended and in effect on December 31, 2015.

18 “(f) ‘Preservation project’ means housing that was previously developed
19 as affordable housing with a contract for rent assistance from the United
20 States Department of Housing and Urban Development or the United States
21 Department of Agriculture and that is being acquired by a sponsoring entity.

22 “(g) ‘Qualified assignee’ means any investor participating in the second-
23 ary market for real estate loans.

24 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity
25 that has a controlling interest in the real property that is financed by a
26 qualified loan. A controlling interest includes, but is not limited to, a con-
27 trolling interest in the general partner of a limited partnership that owns
28 the real property.

29 “(i) ‘Qualified loan’ means:

30 “(A) A loan that meets the criteria stated in subsection (5) of this section

1 or that is made to refinance a loan that meets the criteria described in sub-
2 section (5) of this section; or

3 “(B) The purchase by a lending institution of bonds, as defined in ORS
4 286A.001, issued on behalf of the Housing and Community Services Depart-
5 ment, the proceeds of which are used to finance or refinance a loan that
6 meets the criteria described in subsection (5) of this section.

7 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooper-
8 ative, state governmental entity, local unit of government as defined in ORS
9 466.706, housing authority or any other person, provided that the person has
10 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit
11 cooperative, state governmental entity, local unit of government or housing
12 authority.

13 “(2) The Department of Revenue shall allow a credit against taxes other-
14 wise due under this chapter for the taxable year to a lending institution that
15 makes a qualified loan certified by the Housing and Community Services
16 Department as provided in subsection (7) of this section. The amount of the
17 credit is equal to the difference between:

18 “(a) The amount of finance charge charged by the lending institution
19 during the taxable year at an annual rate less than the market rate for a
20 qualified loan that is made before January 1, [2020] **2026**, that complies with
21 the requirements of this section; and

22 “(b) The amount of finance charge that would have been charged during
23 the taxable year by the lending institution for the qualified loan for housing
24 construction, development, acquisition or rehabilitation measured at the an-
25 nual rate charged by the lending institution for nonsubsidized loans made
26 under like terms and conditions at the time the qualified loan for housing
27 construction, development, acquisition or rehabilitation is made.

28 “(3) The maximum amount of credit for the difference between the
29 amounts described in subsection (2)(a) and (b) of this section may not exceed
30 four percent of the average unpaid balance of the qualified loan during the

1 tax year for which the credit is claimed.

2 “(4) Any tax credit allowed under this section that is not used by the
3 taxpayer in a particular year may be carried forward and offset against the
4 taxpayer’s tax liability for the next succeeding tax year. Any credit remain-
5 ing unused in the next succeeding tax year may be carried forward and used
6 in the second succeeding tax year, and likewise, any credit not used in that
7 second succeeding tax year may be carried forward and used in the third
8 succeeding tax year, and any credit not used in that third succeeding tax
9 year may be carried forward and used in the fourth succeeding tax year, and
10 any credit not used in that fourth succeeding tax year may be carried for-
11 ward and used in the fifth succeeding tax year, but may not be carried for-
12 ward for any tax year thereafter.

13 “(5) To be eligible for the tax credit allowable under this section, a
14 lending institution must make a qualified loan by either purchasing bonds,
15 as defined in ORS 286A.001, issued on behalf of the Housing and Community
16 Services Department, the proceeds of which are used to finance or refinance
17 a loan that meets the criteria stated in this subsection, or by making a loan
18 directly to:

19 “(a) An individual or individuals who own a dwelling, participate in an
20 owner-occupied community rehabilitation program and are certified by the
21 local government or its designated agent as having an income level when the
22 loan is made of less than 80 percent of the area median income;

23 “(b) A qualified borrower who:

24 “(A) Uses the loan proceeds to finance construction, development, acqui-
25 sition or rehabilitation of housing; and

26 “(B) Provides a written certification executed by the Housing and Com-
27 munity Services Department that the:

28 “(i) Housing created by the loan is or will be occupied by households
29 earning less than 80 percent of the area median income; and

30 “(ii) Full amount of savings from the reduced interest rate provided by

1 the lending institution is or will be passed on to the tenants in the form of
2 reduced housing payments, regardless of other subsidies provided to the
3 housing project;

4 “(c) Subject to subsection (14) of this section, a qualified borrower who:

5 “(A) Uses the loan proceeds to finance construction, development, acqui-
6 sition or rehabilitation of housing consisting of a manufactured dwelling
7 park; and

8 “(B) Provides a written certification executed by the Housing and Com-
9 munity Services Department that the housing will continue to be operated
10 as a manufactured dwelling park during the period for which the tax credit
11 is allowed; or

12 “(d) A qualified borrower who:

13 “(A) Uses the loan proceeds to finance acquisition or rehabilitation of
14 housing consisting of a preservation project; and

15 “(B) Provides a written certification executed by the Housing and Com-
16 munity Services Department that the housing preserved by the loan:

17 “(i) Is or will be occupied by households earning less than 80 percent of
18 the area median income; and

19 “(ii) Is the subject of a rent assistance contract with the United States
20 Department of Housing and Urban Development or the United States De-
21 partment of Agriculture that will be maintained by the qualified borrower.

22 “(6) A loan made to refinance a loan that meets the criteria stated in
23 subsection (5) of this section must be treated the same as a loan that meets
24 the criteria stated in subsection (5) of this section.

25 “(7) For a qualified loan to be eligible for the tax credit allowable under
26 this section, the Housing and Community Services Department must execute
27 a written certification for the qualified loan that:

28 “(a) Specifies the period, not to exceed 20 years, as determined by the
29 Housing and Community Services Department, during which the tax credit
30 is allowed for the qualified loan; and

1 “(b) States that the qualified loan is within the limitation imposed by
2 subsection (8) of this section.

3 “(8) The Housing and Community Services Department may certify quali-
4 fied loans that are eligible under subsection (5) of this section if the total
5 credits attributable to all qualified loans eligible for credits under this sec-
6 tion and then outstanding do not exceed [*\$17 million*] **\$25 million** for any
7 fiscal year. In making loan certifications under subsection (7) of this section,
8 the Housing and Community Services Department shall attempt to distribute
9 the tax credits statewide, but shall concentrate the tax credits in those areas
10 of the state that are determined by the Oregon Housing Stability Council to
11 have the greatest need for affordable housing.

12 “(9) The tax credit provided for in this section may be taken whether or
13 not:

14 “(a) The financial institution is eligible to take a federal income tax
15 credit under section 42 of the Internal Revenue Code with respect to the
16 project financed by the qualified loan; or

17 “(b) The project receives financing from bonds, the interest on which is
18 exempt from federal taxation under section 103 of the Internal Revenue Code.

19 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section
20 financed through the purchase of bonds, the interest of which is exempt from
21 federal taxation under section 103 of the Internal Revenue Code, the amount
22 of finance charge that would have been charged under subsection (2)(b) of
23 this section is determined by reference to the finance charge that would have
24 been charged if the federally tax exempt bonds had been issued and the tax
25 credit under this section did not apply.

26 “(11) A lending institution may sell a qualified loan for which a certi-
27 fication has been executed to a qualified assignee whether or not the lending
28 institution retains servicing of the qualified loan so long as a designated
29 lending institution maintains records, annually verified by a loan servicer,
30 that establish the amount of tax credit earned by the taxpayer throughout

1 each year of eligibility.

2 “(12) Notwithstanding any other provision of law, a lending institution
3 that is a community development corporation organized under the Oregon
4 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
5 under this section to one or more other lending institutions that are stock-
6 holders or members of the community development corporation or that oth-
7 erwise participate through the community development corporation in the
8 making of one or more qualified loans for which the tax credit under this
9 section is allowed.

10 “(13) The lending institution shall file an annual statement with the
11 Housing and Community Services Department, specifying that it has con-
12 formed with all requirements imposed by law to qualify for a tax credit under
13 this section.

14 “(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified
15 borrower on a loan to finance the construction, development, acquisition or
16 rehabilitation of a manufactured dwelling park under subsection (5)(c) of this
17 section must be a nonprofit corporation, manufactured dwelling park
18 nonprofit cooperative, state governmental entity, local unit of government
19 as defined in ORS 466.706 or housing authority.

20 “(15) The Housing and Community Services Department and the Depart-
21 ment of Revenue may adopt rules to carry out the provisions of this section.

22 **“SECTION 5. The amendments to ORS 317.097 by section 4 of this**
23 **2017 Act apply to tax years beginning on or after January 1, 2018.**

24

25 **“BIOMASS TAX CREDIT**

26

27 **“SECTION 6.** ORS 315.141 is amended to read:

28 “315.141. (1) As used in this section:

29 “(a) ‘Agricultural producer’ means a person that produces biomass in
30 Oregon that is used, in Oregon, as biofuel or to produce biofuel.

1 “(b) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass,
2 that have been converted into a processed fuel ready for use as energy by a
3 biofuel producer’s customers or for direct biomass energy use at the biofuel
4 producer’s site.

5 “(c) ‘Biofuel producer’ means a person that through activities in Oregon:

6 “(A) Alters the physical makeup of biomass to convert it into biofuel;

7 “(B) Changes one biofuel into another type of biofuel; or

8 “(C) Uses biomass in Oregon to produce energy.

9 “(d) ‘Biomass’ means organic matter that is available on a renewable or
10 recurring basis and that is derived from:

11 “(A) Forest or rangeland woody debris from harvesting or thinning con-
12 ducted to improve forest or rangeland ecological health and reduce unchar-
13 acteristic stand replacing wildfire risk;

14 “(B) Wood material from hardwood timber described in ORS 321.267 (3);

15 “(C) Agricultural residues;

16 “(D) Offal and tallow from animal rendering;

17 “(E) Food wastes collected as provided under ORS chapter 459 or 459A;

18 “(F) Wood debris collected as provided under ORS chapter 459 or 459A;

19 “(G) Wastewater solids; or

20 “(H) Crops grown solely to be used for energy.

21 “(e) ‘Biomass’ does not mean wood that has been treated with creosote,
22 pentachlorophenol, inorganic arsenic or other inorganic chemical compounds
23 or waste, other than matter described in paragraph (d) of this subsection.

24 “(f) ‘Biomass collector’ means a person that collects biomass in Oregon
25 to be used, in Oregon, as biofuel or to produce biofuel.

26 “(g) ‘Canola’ means plants of the genus Brassica:

27 “(A) In which seeds having a high oil content are the primary econom-
28 ically valuable product; and

29 “(B) That have a high erucic acid content suitable for industrial uses or
30 a low erucic acid content suitable for edible oils.

1 “(h) ‘Oilseed processor’ means a person that receives agricultural oilseeds
2 and separates them into meal and oil by mechanical or chemical means.

3 “(i) ‘Willamette Valley’ means Clackamas, Linn, Marion, Multnomah,
4 Polk, Washington and Yamhill Counties and the portion of Benton and Lane
5 Counties lying east of the summit of the Coast Range.

6 “(2) The Director of [*the State Department of Energy*] **Agriculture** may
7 adopt rules to define criteria, only as the criteria apply to organic biomass,
8 to determine additional characteristics of biomass for purposes of this sec-
9 tion.

10 “(3)(a) An agricultural producer or biomass collector shall be allowed a
11 credit against the taxes that would otherwise be due under ORS chapter 316
12 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

13 “(A) The production of biomass in Oregon that is used, in Oregon, as
14 biofuel or to produce biofuel; or

15 “(B) The collection of biomass in Oregon that is used, in Oregon, as
16 biofuel or to produce biofuel.

17 “(b) A credit under this section may be claimed in the tax year in which
18 the credit is certified under subsection (5) of this section.

19 “(c) A taxpayer may be allowed a credit under this section for more than
20 one of the roles defined in subsection (1) of this section, but a biofuel pro-
21 ducer that is not also an agricultural producer or a biomass collector may
22 not claim a credit under this section.

23 “(d) A credit under this section may be claimed only once for each unit
24 of biomass.

25 “(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

26 “(A) Is not allowed for canola grown, collected or produced in the
27 Willamette Valley; and

28 “(B) Is not allowed for grain corn, but a tax credit shall be allowed for
29 other corn material.

30 “(4) The amount of the credit shall equal the amount certified under

1 subsection (5) of this section.

2 “(5)(a) The State Department of [*Energy*] **Agriculture** may establish by
3 rule procedures and criteria for determining the amount of the tax credit to
4 be certified under this section, consistent with ORS 469B.403. The depart-
5 ment shall provide written certification to taxpayers that are eligible to
6 claim the credit under this section.

7 “(b) **The total amount claimed for tax credits for the processing of**
8 **biomass that is animal manure may not exceed \$5 million for all tax-**
9 **payers for any biennium. If the State Department of Agriculture re-**
10 **ceives applications for the credit sufficient to exceed this amount, the**
11 **department shall proportionately reduce the amount of certified cred-**
12 **its among all taxpayers applying for the credit.**

13 “[*b*] (c) The State Department of [*Energy*] **Agriculture** may charge and
14 collect a fee from taxpayers for certification of credits under this section.
15 The fee may not exceed the cost to the department of determining the
16 amount of certified cost.

17 “[*c*] (d) The State Department of [*Energy*] **Agriculture** shall provide to
18 the Department of Revenue a list, by tax year, of taxpayers for which a
19 credit is certified under this section, upon request of the Department of
20 Revenue.

21 “(6) The amount of the credit claimed under this section for any tax year
22 may not exceed the tax liability of the taxpayer.

23 “(7) Each agricultural producer or biomass collector shall maintain the
24 written documentation of the amount certified for tax credit under this sec-
25 tion in its records for a period of at least five years after the tax year in
26 which the credit is claimed and provide the written documentation to the
27 Department of Revenue upon request.

28 “(8) The credit shall be claimed on a form prescribed by the Department
29 of Revenue that contains the information required by the department.

30 “(9) Any tax credit otherwise allowable under this section that is not used

1 by the taxpayer in a particular tax year may be carried forward and offset
2 against the taxpayer's tax liability for the next succeeding tax year. Any
3 credit remaining unused in the next succeeding tax year may be carried
4 forward and used in the second succeeding tax year, and likewise any credit
5 not used in that second succeeding tax year may be carried forward and used
6 in the third succeeding tax year, and any credit not used in that third suc-
7 ceeding tax year may be carried forward and used in the fourth succeeding
8 tax year, but may not be carried forward for any tax year thereafter.

9 “(10) In the case of a credit allowed under this section:

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

12 “(b) If a change in the status of the taxpayer from resident to nonresident
13 or from nonresident to resident occurs, the credit allowed by this section
14 shall be determined in a manner consistent with ORS 316.117.

15 “(c) If a change in the taxable year of the taxpayer occurs as described
16 in ORS 314.085, or if the department terminates the taxpayer's taxable year
17 under ORS 314.440, the credit allowed under this section shall be prorated
18 or computed in a manner consistent with ORS 314.085.

19 **“SECTION 7.** ORS 315.144 is amended to read:

20 “315.144. (1) A person that has obtained a tax credit under ORS 315.141
21 may transfer the credit to a taxpayer subject to tax under ORS chapter 316,
22 317 or 318.

23 “(2) A tax credit allowed under ORS 315.141 may be transferred on or
24 before the date on which the return is due for the tax year in which the
25 credit may first be claimed. After that date, no portion of a credit allowed
26 under ORS 315.141 may be transferred.

27 “(3) To transfer the tax credit, the taxpayer earning the credit and the
28 taxpayer that will claim the credit shall, on or before the date prescribed in
29 subsection (2) of this section, jointly file a notice of tax credit transfer with
30 the Department of Revenue. The notice shall be given on a form prescribed

1 by the department that contains all of the following:

2 “(a) The name and address of the transferor and transferee;

3 “(b) The amount of the tax credit that is being transferred;

4 “(c) The amount of the tax credit that is being retained by the transferor;

5 and

6 “(d) Any other information required by the department.

7 “(4) The State Department of [*Energy*] **Agriculture** may establish by rule
8 a minimum discounted value of a tax credit under this section.

9 “(5) The Department of Revenue, in consultation with the State Depart-
10 ment of [*Energy*] **Agriculture**, may by rule establish procedures for the
11 transfer of tax credits provided by this section.

12

13 **“TRANSFER**

14

15 **“SECTION 8. The duties, functions and powers of the State De-**
16 **partment of Energy relating to the administration of the tax credit**
17 **allowed for biomass under ORS 315.141 are imposed upon, transferred**
18 **to and vested in the State Department of Agriculture.**

19

20 **“RECORDS, PROPERTY, EMPLOYEES**

21

22 **“SECTION 9. (1) The Director of the State Department of Energy**
23 **shall:**

24 **“(a) Deliver to the State Department of Agriculture all records and**
25 **property within the jurisdiction of the director that relate to the du-**
26 **ties, functions and powers transferred by section 8 of this 2017 Act; and**

27 **“(b) Transfer to the State Department of Agriculture those em-**
28 **ployees engaged primarily in the exercise of the duties, functions and**
29 **powers transferred by section 8 of this 2017 Act.**

30 **“(2) The Director of Agriculture shall take possession of the records**

1 and property, and shall take charge of the employees and employ them
2 in the exercise of the duties, functions and powers transferred by
3 section 8 of this 2017 Act, without reduction of compensation but
4 subject to change or termination of employment or compensation as
5 provided by law.

6 “(3) The Governor shall resolve any dispute between the State De-
7 partment of Energy and the State Department of Agriculture relating
8 to transfers of records, property and employees under this section, and
9 the Governor’s decision is final.

10
11 **“UNEXPENDED REVENUES**

12
13 **“SECTION 10. (1) The unexpended balances of amounts authorized**
14 **to be expended by the State Department of Energy for the biennium**
15 **beginning July 1, 2017, from revenues dedicated, continuously appro-**
16 **priated, appropriated or otherwise made available for the purpose of**
17 **administering and enforcing the duties, functions and powers trans-**
18 **ferred by section 8 of this 2017 Act are transferred to and are available**
19 **for expenditure by the State Department of Agriculture for the**
20 **biennium beginning July 1, 2017, for the purpose of administering and**
21 **enforcing the duties, functions and powers transferred by section 8 of**
22 **this 2017 Act.**

23 **“(2) The expenditure classifications, if any, established by Acts au-**
24 **thorizing or limiting expenditures by the State Department of Energy**
25 **remain applicable to expenditures by the State Department of Agri-**
26 **culture under this section.**

27
28 **“ACTION, PROCEEDING, PROSECUTION**

29
30 **“SECTION 11. The transfer of duties, functions and powers to the**

1 State Department of Agriculture by section 8 of this 2017 Act does not
2 affect any action, proceeding or prosecution involving or with respect
3 to the duties, functions and powers begun before and pending at the
4 time of the transfer, except that the State Department of Agriculture
5 is substituted for the State Department of Energy in the action, pro-
6 ceeding or prosecution.

7
8 **“LIABILITY, DUTY, OBLIGATION**

9
10 **“SECTION 12. (1) Nothing in sections 8 to 14 of this 2017 Act relieves**
11 **a person of a liability, duty or obligation accruing under or with re-**
12 **spect to the duties, functions and powers transferred by section 8 of**
13 **this 2017 Act. The State Department of Agriculture may undertake the**
14 **collection or enforcement of any such liability, duty or obligation.**

15 **“(2) The rights and obligations of the State Department of Energy**
16 **legally incurred under contracts, leases and business transactions ex-**
17 **ecuted, entered into or begun before the operative date of section 8**
18 **of this 2017 Act accruing under or with respect to the duties, functions**
19 **and powers transferred by section 8 of this 2017 Act are transferred to**
20 **the State Department of Agriculture. For the purpose of succession**
21 **to these rights and obligations, the State Department of Agriculture**
22 **is a continuation of the State Department of Energy and not a new**
23 **authority.**

24
25 **“RULES**

26
27 **“SECTION 13. Notwithstanding the transfer of duties, functions and**
28 **powers by section 8 of this 2017 Act, the rules of the State Department**
29 **of Energy with respect to such duties, functions or powers that are in**
30 **effect on the operative date of section 8 of this 2017 Act continue in**

1 effect until superseded or repealed by rules of the State Department
2 of Agriculture. References in the rules of the State Department of
3 Energy to the State Department of Energy or an officer or employee
4 of the State Department of Energy are considered to be references to
5 the State Department of Agriculture or an officer or employee of the
6 State Department of Agriculture.

7 **“SECTION 14.** Whenever, in any uncodified law or resolution of the
8 Legislative Assembly or in any rule, document, record or proceeding
9 authorized by the Legislative Assembly, in the context of the duties,
10 functions and powers transferred by section 8 of this 2017 Act, refer-
11 ence is made to the State Department of Energy, or an officer or em-
12 ployee of the State Department of Energy, whose duties, functions or
13 powers are transferred by section 8 of this 2017 Act, the reference is
14 considered to be a reference to the State Department of Agriculture
15 or an officer or employee of the State Department of Agriculture who
16 by this 2017 Act is charged with carrying out the duties, functions and
17 powers.

18

19

“OPERATIVE DATE

20

21 **“SECTION 15.** Sections 8 to 14 of this 2017 Act become operative on
22 January 1, 2018.

23

24

“APPLICABILITY DATE

25

26 **“SECTION 16.** The amendments to ORS 315.141 and 315.144 by
27 sections 6 and 7 of this 2017 Act apply to tax years beginning on or
28 after January 1, 2018.

29

30

“SOLAR ENERGY DEVICES

1 **“SECTION 17. Sections 18 to 26 of this 2017 Act are added to and**
2 **made a part of ORS chapter 315.**

3 **“SECTION 18. As used in sections 18 to 26 of this 2017 Act:**

4 **“(1) ‘Contractor’ means a person whose trade or business consists**
5 **of offering for sale a solar energy device, construction service, instal-**
6 **lation service or design service.**

7 **“(2) ‘Cost’ means the actual cost of the acquisition, construction**
8 **and installation of the solar energy device.**

9 **“(3) ‘Domestic water heating’ means the heating of water used in**
10 **a dwelling for bathing, clothes washing, dishwashing and other related**
11 **functions.**

12 **“(4) ‘Dwelling’ means real or personal property ordinarily inhabited**
13 **as a principal or secondary residence and located within this state.**
14 **‘Dwelling’ includes, but is not limited to, an individual unit within**
15 **multiple unit residential housing.**

16 **“(5) ‘First year energy yield’ of a solar energy device is the usable**
17 **energy produced or energy saved under average environmental condi-**
18 **tions in one year.**

19 **“(6) ‘Placed in service’ means the date a solar energy device is ready**
20 **and available to produce usable energy or save energy.**

21 **“(7) ‘Solar electric system’ means any system, mechanism or series**
22 **of mechanisms, including photovoltaic systems, that uses solar radi-**
23 **ation to generate electrical energy for a dwelling.**

24 **“(8) ‘Solar energy device’ has the meaning given that term by the**
25 **State Department of Energy by rule.**

26 **“(9) ‘Third-party solar energy device installation’ means a solar**
27 **energy device that is installed in connection with residential property**
28 **and owned by a person other than the residential property owner in**
29 **accordance with an agreement in effect for at least 10 years between**
30 **the residential property owner and the solar energy device owner. The**

1 agreement must cover maintenance and either the use of or the power
2 generated by the solar energy device.

3 **“SECTION 19. (1)(a) A resident individual shall be allowed a credit**
4 **against the taxes otherwise due under this chapter for costs paid or**
5 **incurred for construction or installation of each of one or more solar**
6 **energy devices in or at a dwelling.**

7 **“(b) A credit under this section is not allowed for a solar energy**
8 **device that does not meet or exceed all applicable federal, state and**
9 **local requirements for energy efficiency, including equipment codes,**
10 **the state building code, specialty codes and any other standards.**

11 **“(2)(a) For each solar energy device that uses solar radiation for**
12 **domestic water heating, the credit allowed under this section shall be**
13 **based upon 50 percent of the cost of the device or the first year energy**
14 **yield in kilowatt hours per year multiplied by \$2, whichever is lower,**
15 **up to \$6,000.**

16 **“(b) For each solar energy device that is a solar electric system, the**
17 **credit allowed under this section may not exceed the lesser of 50 per-**
18 **cent of the cost of the device or \$3 per watt of installed output, up to**
19 **\$6,000.**

20 **“(c) Notwithstanding paragraph (a) and (b) of this subsection, the**
21 **total amount of the credits allowed in any one tax year may not exceed**
22 **the tax liability of the taxpayer or \$1,500 for each solar energy device,**
23 **whichever is less. Unused credit amounts may be carried forward as**
24 **provided in subsection (7) of this section, but may not be carried for-**
25 **ward to a tax year that is more than five tax years following the first**
26 **tax year for which any credit was allowed with respect to the solar**
27 **energy device that is the basis for the credit.**

28 **“(3) The State Department of Energy may by rule provide for a**
29 **lesser amount of incentive for each type of solar energy device as**
30 **market conditions warrant.**

1 **“(4) To qualify for a credit under this section, all the following are**
2 **required:**

3 **“(a) The solar energy device must be purchased, constructed, in-**
4 **stalled and operated in accordance with sections 18 to 26 of this 2017**
5 **Act and a certificate issued under section 21 of this 2017 Act.**

6 **“(b) The taxpayer who is allowed the credit must be the owner or**
7 **contract purchaser of the dwelling or dwellings served by the solar**
8 **energy device or the tenant of the owner or of the contract purchaser**
9 **and must:**

10 **“(A) Use the dwelling or dwellings served by the solar energy device**
11 **as a principal or secondary residence; or**

12 **“(B) Rent or lease, under a residential rental agreement, the**
13 **dwelling or dwellings to a tenant who uses the dwelling or dwellings**
14 **as a principal or secondary residence.**

15 **“(c) The credit must be claimed for the tax year in which the solar**
16 **energy device was purchased if the device is operational by April 1 of**
17 **the next following tax year.**

18 **“(5) The credit provided by this section does not affect the compu-**
19 **tation of basis under this chapter.**

20 **“(6) The total credits allowed under this section in any one year**
21 **may not exceed the tax liability of the taxpayer.**

22 **“(7) Any tax credit otherwise allowable under this section that is**
23 **not used by the taxpayer in a particular year may be carried forward**
24 **and offset against the taxpayer’s tax liability for the next succeeding**
25 **tax year. Any credit remaining unused in the next succeeding tax year**
26 **may be carried forward and used in the second succeeding tax year,**
27 **and likewise any credit not used in that second succeeding tax year**
28 **may be carried forward and used in the third succeeding tax year, and**
29 **any credit not used in that third succeeding tax year may be carried**
30 **forward and used in the fourth succeeding tax year, and any credit not**

1 used in that fourth succeeding tax year may be carried forward and
2 used in the fifth succeeding tax year, but may not be carried forward
3 for any tax year thereafter.

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

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

11 “(10) If a change in the status of a taxpayer from resident to non-
12 resident or from nonresident to resident occurs, the credit allowed by
13 this section shall be determined in a manner consistent with ORS
14 316.117.

15 “(11) Spouses in a marriage who file separate returns for a taxable
16 year may each claim a share of the tax credit that would have been
17 allowed on a joint return in proportion to the contribution of each.
18 However, a spouse living in a separate principal residence may claim
19 the tax credit in the same amount as permitted a single person.

20 “(12) As used in this section, unless the context requires otherwise,
21 ‘taxpayer’ includes a transferee of a verification form under section
22 21 (8) of this 2017 Act.

23 “(13) Notwithstanding any provision of subsections (1) to (3) of this
24 section, the sum of the credit allowed under subsection (1) of this
25 section plus any similar credit allowed for federal income tax purposes
26 may not exceed the cost for the acquisition, construction and instal-
27 lation of the solar energy device.

28 **“SECTION 20.** (1) For the purposes of carrying out sections 18 to
29 26 of this 2017 Act, the State Department of Energy may adopt rules
30 prescribing minimum performance criteria for solar energy devices.

1 The department may, in prescribing criteria, rely on applicable federal
2 and state standards, including the state building code, and any spe-
3 cialty codes and any code adopted by Department of Consumer and
4 Business Services.

5 “(2) The State Department of Energy shall take into consideration
6 evolving market conditions in prescribing minimum performance cri-
7 teria for solar energy devices and in determining credit amounts,
8 consistent with section 19 of this 2017 Act.

9 “(3) The department, in adopting rules under this section applicable
10 to solar energy devices used for solar heating and cooling systems,
11 shall take into consideration applicable standards of federal perform-
12 ance criteria prescribed pursuant to the provisions of the Solar Heat-
13 ing and Cooling Demonstration Act of 1974, 42 U.S.C. 5506.

14 **“SECTION 21. (1) A person may claim a tax credit under section 19**
15 **of this 2017 Act if the person:**

16 “(a) Meets the requirements of sections 18 to 26 of this 2017 Act; and

17 “(b) Pays, subject to subsection (9) of this section, all or a portion
18 of the costs of a solar energy device.

19 “(2) To be eligible for a tax credit under section 19 of this 2017 Act,
20 a person claiming a tax credit for construction or installation of a
21 solar energy device shall have the device certified by the State De-
22 partment of Energy or constructed or installed by a contractor certi-
23 fied by the department under subsection (4) of this section.

24 “(3) Verification of the purchase, construction or installation of a
25 solar energy device shall be made in writing on a form provided by the
26 department, if applicable, shall contain:

27 “(a) The location of the solar energy device;

28 “(b) A description of the type of device;

29 “(c) If the device was constructed or installed by a contractor, evi-
30 dence that the contractor has any license, bond, insurance and permit

1 required to sell and construct or install the solar energy device;

2 “(d) If the device was constructed or installed by a contractor, a
3 statement signed by the contractor that the applicant has received:

4 “(A) A statement of the reasonably expected energy savings of the
5 device;

6 “(B) A copy of consumer information published by the department;

7 “(C) An operating manual for the solar energy device; and

8 “(D) A copy of the contractor’s certification certificate or solar
9 energy device system certificate for the solar energy device, as appro-
10 priate;

11 “(e) If the device was not constructed or installed by a contractor,
12 evidence that:

13 “(A) The department has issued a solar energy device system cer-
14 tificate for the solar energy device; and

15 “(B) The taxpayer has obtained all building permits required for
16 construction or installation of the device;

17 “(f) A statement, signed by both the taxpayer claiming the credit
18 and the contractor if the device was constructed or installed by a
19 contractor, that the construction or installation meets all the re-
20 quirements of ORS 469B.100 to 469B.118;

21 “(g) The date the solar energy device was purchased by the resi-
22 dential property owner, or, for a third-party solar energy device in-
23 stallation, the date that the residential property owner and the solar
24 energy device owner signed a contract;

25 “(h) The date the solar energy device was placed in service; and

26 “(i) Any other information that the Director of the State Depart-
27 ment of Energy determines is necessary.

28 “(4)(a) When the department finds that a solar energy device can
29 meet the standards adopted under section 20 of this 2017 Act, the di-
30 rector may issue a contractor system certification to the person selling

1 and constructing or installing the solar energy device.

2 “(b) Any person who sells or installs more than _____ solar energy
3 devices in one year shall apply for a contractor system certification.

4 An application for a contractor system certification shall be made in
5 writing on a form provided by the department and shall contain:

6 “(A) A statement that the contractor has any license, bonding, in-
7 surance and permit that is required for the sale and construction or
8 installation of the solar energy device;

9 “(B) A specific description of the solar energy device, including, but
10 not limited to, the material, equipment and mechanism used in the
11 device, operating procedure, sizing and siting method and construction
12 or installation procedure;

13 “(C) The addresses of three installations of the device that are
14 available for inspection by the department;

15 “(D) The range of installed costs to purchasers of the device;

16 “(E) Any important construction, installation or operating in-
17 structions; and

18 “(F) Any other information that the department determines is
19 necessary.

20 “(c) A new application for contractor system approval shall be filed
21 when there is a change in the information supplied under paragraph
22 (b) of this subsection.

23 “(d) The department may issue contractor system certificates to
24 each contractor who on January 1, 2018, has a valid dealer system
25 certification, which shall authorize the sale and installation of the
26 same domestic water heating solar energy devices authorized by the
27 dealer certification.

28 “(e) If the department finds that a solar energy device can meet the
29 standards adopted under section 20 of this 2017 Act, the director may
30 issue a solar energy device system certificate to the taxpayer con-

1 **structing or installing or having a solar energy device constructed or**
2 **installed.**

3 **“(f) An application for a solar energy device system certificate shall**
4 **be made in writing on a form provided by the department and shall**
5 **contain:**

6 **“(A) A specific description of the solar energy device, including, but**
7 **not limited to, the material, equipment and mechanism used in the**
8 **device, operating procedure, sizing, siting method and construction or**
9 **installation procedure;**

10 **“(B) The constructed or installed cost of the device; and**

11 **“(C) A statement that the taxpayer has all permits required for**
12 **construction or installation of the device.**

13 **“(5) Prior to commencing installation of solar energy devices, in-**
14 **stallers of third-party solar energy device installations must apply to**
15 **the department to reserve credits on behalf of owners of residential**
16 **property. Installers may reserve credit for no more than 25 installa-**
17 **tions under this subsection in one application.**

18 **“(6) To claim the tax credit, the verification form described in**
19 **subsection (3) of this section shall be submitted with the taxpayer’s**
20 **tax return for the year the solar energy device is placed in service or**
21 **the immediately succeeding tax year. A copy of the contractor’s cer-**
22 **tification certificate or solar energy device system certificate also shall**
23 **be submitted.**

24 **“(7) The verification form and contractor’s certificate or solar en-**
25 **ergy device system certificate described under this section shall be**
26 **effective for purposes of tax relief allowed under section 19 of this 2017**
27 **Act.**

28 **“(8) The verification form and contractor’s certificate described**
29 **under this section may be transferred to the first purchaser of a**
30 **dwelling who intends to use the dwelling as a principal or secondary**

1 residence.

2 “(9) Any person that pays the present value of the tax credit for a
3 solar energy device provided under section 19 of this 2017 Act to the
4 person who constructs or installs the solar energy device shall be en-
5 titled to claim the credit in the manner and subject to rules adopted
6 by the Department of Revenue to carry out the purposes of this sub-
7 section. The State Department of Energy may establish by rule uni-
8 form discount rates to be used in calculating the present value of a
9 tax credit under this subsection.

10 **“SECTION 22.** (1) Under the procedures for a contested case under
11 ORS chapter 183, the director of the agency responsible for certifying
12 or otherwise determining eligibility or granting approval for a tax
13 credit allowed under this chapter or ORS chapter 316 or 317 may order
14 the suspension, revocation or forfeiture of the tax credit approval or
15 of a portion thereof if the director finds that:

16 “(a) The approval was obtained by fraud or misrepresentation;

17 “(b) The approval was obtained by mistake or miscalculation; or

18 “(c) The taxpayer otherwise violates or has violated a provision that
19 allows or provides for administration of a tax credit.

20 “(2) As soon as an order of revocation under this section becomes
21 final, the director shall notify the Department of Revenue and the
22 person that received the tax credit certification, or other approval, of
23 the order of revocation. Upon notification, the Department of Revenue
24 immediately shall proceed to collect:

25 “(a) If no portion of a credit has been transferred, those taxes not
26 paid by the holder of the certificate or other approval as a result of
27 the tax credits provided to the holder under the revoked approval,
28 from the holder or a successor in interest to the business interests of
29 the holder. All tax credits provided to the holder and attributable to
30 the fraudulently or mistakenly obtained approval or portion of the

1 approval shall be forfeited.

2 “(b) If all of a credit has been transferred, an amount equal to the
3 amount of the tax credits allowable to the transferee under the re-
4 voked approval, from the transferor.

5 “(c) If a portion of a tax credit has been transferred, those taxes
6 not paid by the transferor as a result of the tax credits provided to the
7 transferor pursuant to the revoked approval, from the transferor or a
8 successor in interest to the business interests of the transferor, and
9 an amount equal to the amount of the tax credits allowable to the
10 transferee pursuant to the revoked approval, from the transferor.

11 “(3)(a) The Department of Revenue shall have the benefit of all laws
12 of the state pertaining to the collection of income and excise taxes and
13 may proceed to collect the amounts described in subsection (2) of this
14 section from the person that obtained approval or a successor in in-
15 terest to the business interests of that person. An assessment of tax
16 is not necessary and the collection of taxes described in this subsection
17 is not precluded by any statute of limitations.

18 “(b) For purposes of this subsection, a lender, bankruptcy trustee
19 or other person that acquires an interest through bankruptcy or
20 through foreclosure of a security interest is not considered to be a
21 successor in interest to the business interests of the person that ob-
22 tained approval.

23 “(4) If the approval is ordered revoked pursuant to this section, the
24 holder of the certificate or other approval shall be denied any further
25 relief in connection with the credit from and after the date that the
26 order of revocation becomes final.

27 “(5) Notwithstanding subsections (1) to (4) of this section, a certif-
28 icate or portion of a certificate held by a transferee may not be con-
29 sidered revoked for purposes of the transferee, the tax credit allowable
30 to the transferee may not be reduced and a transferee is not liable

1 under this section.

2 “(6) Interest under this section shall accrue at the rate established
3 in ORS 305.220 beginning the day after the due date of the return on
4 which the credit may first be claimed.

5 “(7) The Department of Revenue may collect amounts owed under
6 this section by a partnership from the partnership.

7 **“SECTION 23.** By rule and after hearing, the Director of the State
8 Department of Energy may adopt a schedule of reasonable fees that
9 the State Department of Energy may require of applicants for certi-
10 fication of a solar energy device under section 21 of this 2017 Act. Be-
11 fore the adoption or revision of the fees, the department shall estimate
12 the total cost of the program to the department. The fees shall be used
13 to recover the anticipated cost of administering and enforcing the
14 provisions of sections 18 to 26 of this 2017 Act, including filing, inves-
15 tigating, granting and rejecting applications for certification and en-
16 suring compliance with sections 18 to 26 of this 2017 Act and shall be
17 designed not to exceed the total cost estimated by the department.
18 Any excess fees shall be held by the department and shall be used by
19 the department to reduce any future fee increases. The fee may vary
20 according to the size and complexity of the device. The fee is not
21 considered part of the cost of the project to be certified.

22 **“SECTION 24.** (1) The Department of Revenue may by rule require
23 that the State Department of Energy provide information about the
24 certification of tax credits allowed under section 19 of this 2017 Act,
25 including the name and taxpayer identification number of the taxpayer
26 or other person receiving approval, the date the approval was issued
27 in its final form, the approved amount of credit and the first tax year
28 for which the credit may be claimed.

29 “(2) A taxpayer that is a pass-through entity that has received
30 certification shall provide the information described in subsection (1)

1 of this section to the department within two months after the close
2 of the tax year in which the approval was issued.

3 “(3) The Department of Revenue shall prescribe by rule the manner
4 and the timing of submission of the information to the department.

5 **“SECTION 25. (1) Not later than March 31 of each year, the State**
6 **Department of Energy shall submit relevant program data to a com-**
7 **mittee of the Legislative Revenue Officer. The data must address the**
8 **operation of the credit in the immediately preceding calendar year.**

9 “(2) The data required under subsection (1) of this section shall be
10 disaggregated and include:

11 “(a) The amount of credits certified by the department under sec-
12 tion 21 of this 2017 Act for the personal income tax years beginning in
13 the preceding calendar year;

14 “(b) Demographic information such as zip code of construction or
15 installation;

16 “(c) A classification of every solar energy device for which a credit
17 is allowed;

18 “(d) The amount of energy efficiency achieved;

19 “(e) The amount of renewable energy generated; and

20 “(f) The employment information related to the allowance of the
21 credit.

22 “(3) The report must include any information that the department
23 has submitted to the State Chief Information Officer for posting on
24 the Oregon transparency website required under ORS 184.483 in re-
25 lation to credits certified under section 21 of this 2017 Act in the pre-
26 ceding calendar year.

27 “(4) Notwithstanding subsection (3) of this section, the department
28 shall ensure that all data included in the report is aggregated or made
29 sufficiently anonymous that the identities of individual taxpayers are
30 not disclosed.

1 **“SECTION 26. Section 19 of this 2017 Act applies to tax years be-**
2 **ginning on or after January 1, 2018, and before January 1, 2022.**

3
4 **“USE OF CREDITS AGAINST MINIMUM TAX**

5
6 **“SECTION 27.** Section 45, chapter 701, Oregon Laws 2015, is amended to
7 read:

8 **“Sec. 45.** [(1)] The amendments to ORS 317.090 by [section 43 of this 2015
9 Act] **sections 43 and 44, chapter 701, Oregon Laws 2015,** apply to tax years
10 beginning on or after January 1, 2015[, and before January 1, 2021].

11 “[(2) The amendments to ORS 317.090 by section 44 of this 2015 Act apply
12 to tax years beginning on or after January 1, 2021.]

13 **“SECTION 28.** ORS 317.090, as amended by section 44, chapter 701,
14 Oregon Laws 2015, is amended to read:

15 “317.090. (1) As used in this section:

16 “(a) ‘Oregon sales’ means:

17 “(A) If the corporation apportions business income under ORS 314.650 to
18 314.665 for Oregon tax purposes, the total sales of the taxpayer in this state
19 during the tax year, as determined for purposes of ORS 314.665;

20 “(B) If the corporation does not apportion business income for Oregon tax
21 purposes, the total sales in this state that the taxpayer would have had, as
22 determined for purposes of ORS 314.665, if the taxpayer were required to
23 apportion business income for Oregon tax purposes; or

24 “(C) If the corporation apportions business income using a method dif-
25 ferent from the method prescribed by ORS 314.650 to 314.665, Oregon sales
26 as defined by the Department of Revenue by rule.

27 “(b) If the corporation is an agricultural cooperative that is a cooperative
28 organization described in section 1381 of the Internal Revenue Code, ‘Oregon
29 sales’ does not include sales representing business done with or for members
30 of the agricultural cooperative.

1 “(2) Each corporation or affiliated group of corporations filing a return
2 under ORS 317.710 shall pay annually to the state, for the privilege of car-
3 rying on or doing business by it within this state, a minimum tax as follows:

4 “(a) If Oregon sales properly reported on a return are:

5 “(A) Less than \$500,000, the minimum tax is \$150.

6 “(B) \$500,000 or more, but less than \$1 million, the minimum tax is \$500.

7 “(C) \$1 million or more, but less than \$2 million, the minimum tax is
8 \$1,000.

9 “(D) \$2 million or more, but less than \$3 million, the minimum tax is
10 \$1,500.

11 “(E) \$3 million or more, but less than \$5 million, the minimum tax is
12 \$2,000.

13 “(F) \$5 million or more, but less than \$7 million, the minimum tax is
14 \$4,000.

15 “(G) \$7 million or more, but less than \$10 million, the minimum tax is
16 \$7,500.

17 “(H) \$10 million or more, but less than \$25 million, the minimum tax is
18 \$15,000.

19 “(I) \$25 million or more, but less than \$50 million, the minimum tax is
20 \$30,000.

21 “(J) \$50 million or more, but less than \$75 million, the minimum tax is
22 \$50,000.

23 “(K) \$75 million or more, but less than \$100 million, the minimum tax is
24 \$75,000.

25 “(L) \$100 million or more, the minimum tax is \$100,000.

26 “(b) If a corporation is an S corporation, the minimum tax is \$150.

27 “(3) The minimum tax is not apportionable (except in the case of a change
28 of accounting periods), [*and*] is payable in full for any part of the year dur-
29 ing which a corporation is subject to tax **and may not be reduced, paid**
30 **or otherwise satisfied through the use of any tax credit.**

1 "UNIT CAPTIONS
2

3 "SECTION 29. The unit captions used in this 2017 Act are provided
4 only for the convenience of the reader and do not become part of the
5 statutory law of this state or express any legislative intent in the
6 enactment of this 2017 Act.
7

8 "EFFECTIVE DATE
9

10 "SECTION 30. This 2017 Act takes effect on the 91st day after the
11 date on which the 2017 regular session of the Seventy-ninth Legislative
12 Assembly adjourns sine die."
13