

House Bill 4007

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Human Services and Housing)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits individual to create first-time home buyer savings account with financial institution to pay or reimburse account holder's eligible costs for first-time purchase of single family residence.

Allows subtraction from account holder's federal taxable income of amounts contributed to first-time home buyer savings account during each tax year. Exempts from taxation amount of interest and other income earned on account. Establishes amount and time limitations on subtractions and exemptions from taxable income. Provides that withdrawals for purposes other than approved purposes are taxable income to account holder.

Applies to tax years beginning on or after January 1, 2019, and before January 1, 2025.

Increases amount of fees charged and collected by county clerks to record or file certain real property documents and transferred to Housing and Community Services Department accounts for housing-related programs. Exempts county tax collectors from paying certain fees.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to housing; creating new provisions; amending ORS 205.323, 306.815 and 458.655; prescrib-
3 ing an effective date; and providing for revenue raising that requires approval by a three-fifths
4 majority.

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

6 **SECTION 1. The Legislative Assembly finds that saving for a down payment and closing**
7 **costs for the purchase of a first home is challenging in the present economy. The first-time**
8 **home buyer savings account program will provide opportunities for Oregon residents to save**
9 **funds for first-time home ownership and will provide Oregonians with meaningful incentives**
10 **to save for the purchase of a first home.**

11 **SECTION 2. As used in sections 1 to 10 of this 2018 Act:**

12 (1) "Account holder" means a first-time home buyer who establishes a first-time home
13 buyer savings account.

14 (2) "Allowable closing costs" means disbursements listed in a settlement statement for
15 the purchase of a single family residence by an account holder.

16 (3) "Eligible costs" means the down payment and allowable closing costs for the purchase
17 of a single family residence by an account holder.

18 (4) "Financial institution" means a bank, a trust company, a commercial bank, a national
19 bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance
20 company, a mutual fund, an investment firm or a similar entity authorized to do business
21 in this state.

22 (5) "First-time home buyer" means an individual who is a resident of this state and has
23 not owned or purchased, either individually or jointly, a single family residence during a pe-
24 riod of three years prior to the date of the purchase of a single family residence.

25 (6) "First-time home buyer savings account" or "account" means an account with a fi-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 nancial institution that an account holder designates as a first-time home buyer savings ac-
2 count on the account holder's Oregon income tax return for the purpose of paying or
3 reimbursing eligible costs for the purchase of a single family residence in this state by the
4 account holder.

5 (7) "Resident of this state" has the meaning given that term in ORS 316.027.

6 (8) "Settlement statement" means the statement of receipts and disbursements for a
7 transaction related to real estate, including a statement prescribed under the Real Estate
8 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., and regulations thereunder.

9 (9) "Single family residence" means a residence intended for occupation by a single family
10 unit that is owned and occupied by an account holder as the account holder's principal resi-
11 dence. "Single family residence" includes a manufactured home, residential trailer, mobile
12 home or condominium unit.

13 (10) "Taxable income" has the meaning given that term in ORS 316.022.

14 **SECTION 3.** (1) An individual may create a first-time home buyer savings account with
15 a financial institution to be used to pay or reimburse the account holder's eligible costs re-
16 lated to the purchase of a single family residence.

17 (2) An individual may jointly own a first-time home buyer savings account with another
18 person if the joint account holders are both first-time home buyers and file a joint income
19 tax return.

20 (3) An individual may not be the account holder of more than one first-time home buyer
21 savings account.

22 (4) Only cash and marketable securities may be contributed to a first-time home buyer
23 savings account. Subject to the limitations of section 4 (4) of this 2018 Act, persons other
24 than the account holder may contribute funds to a first-time home buyer savings account.
25 There is no limitation on the amount of contributions that may be made to or retained in a
26 first-time home buyer savings account.

27 (5) The account holder may not use funds held in a first-time home buyer savings ac-
28 count to pay expenses of administering the account, except that the financial institution that
29 administers the account may deduct a service fee from the account.

30 (6) An account holder may withdraw all or part of the funds from a first-time home buyer
31 savings account and deposit the funds in a new first-time home buyer savings account held
32 by a different financial institution or the same financial institution.

33 **SECTION 4.** (1) Subject to section 6 of this 2018 Act, and in addition to the other mod-
34 ifications to federal taxable income contained in ORS chapter 316, there shall be subtracted
35 from federal taxable income the amount of funds contributed to an account holder's first-
36 time home buyer savings account established under sections 1 to 10 of this 2018 Act during
37 the tax year, not to exceed \$5,000 for an account holder who files an individual income tax
38 return or \$10,000 for joint account holders who file a joint income tax return.

39 (2)(a) Funds contributed to a first-time home buyer savings account and earnings, in-
40 cluding interest and other income, on the principal in the account during the tax year are
41 exempt from taxation until withdrawn by the taxpayer, subject to subsection (3) of this sec-
42 tion.

43 (b) Moneys withdrawn by the account holder from a first-time home buyer savings ac-
44 count to pay or reimburse that account holder's eligible costs related to purchase of a single
45 family residence are exempt from taxation under ORS chapter 316. A withdrawal by an ac-

1 count holder for a purpose other than paying or reimbursing eligible costs related to the
2 purchase of a single family residence is taxable under ORS chapter 316.

3 (3) An account holder may claim the subtraction and exemption under subsections (1)
4 and (2) of this section:

5 (a) For a period not to exceed 10 years;

6 (b) For an aggregate total amount of principal and earnings not to exceed \$50,000 during
7 the 10-year period; and

8 (c) Only if the principal and earnings of the account remain in the account until a with-
9 drawal is made for eligible costs related to the purchase of a single family residence by the
10 account holder except as provided in section 3 (6) of this 2018 Act.

11 (4) A person other than the account holder who deposits funds in a first-time home buyer
12 savings account is not entitled to the subtraction and exemption provided for in this section.

13 (5) Moneys in a first-time home buyer savings account not expended on paying or reim-
14 bursing eligible costs for the purchase of a single family residence by December 31 of the last
15 year of the 10-year period described under subsection (3) of this section shall thereafter be
16 included in the account holder's taxable income.

17 **SECTION 5.** Section 6 of this 2018 Act is added to and made a part of ORS chapter 316.

18 **SECTION 6.** (1) The limits applicable to a subtraction from federal taxable income and
19 an exemption allowed under section 4 of this 2018 Act are:

20 (a) \$10,000 if reported on a joint income tax return, or \$5,000 for all others, if the federal
21 adjusted gross income of the taxpayer for the tax year is less than \$150,000 or, if reported
22 on other than a joint return, less than \$75,000.

23 (b) \$8,000 if reported on a joint income tax return, or \$4,000 for all others, if the federal
24 adjusted gross income of the taxpayer for the tax year is \$150,000 or more and less than
25 \$160,000 or, if reported on other than a joint return, \$75,000 or more and less than \$80,000.

26 (c) \$6,000 if reported on a joint income tax return, or \$3,000 for all others, if the federal
27 adjusted gross income of the taxpayer for the tax year is \$160,000 or more and less than
28 \$170,000 or, if reported on other than a joint return, \$80,000 or more and less than \$85,000.

29 (d) \$4,000 if reported on a joint income tax return, or \$2,000 for all others, if the federal
30 adjusted gross income of the taxpayer for the tax year is \$170,000 or more and less than
31 \$180,000 or, if reported on other than a joint return, \$85,000 or more and less than \$90,000.

32 (e) \$2,000 if reported on a joint income tax return, or \$1,000 for all others, if the federal
33 adjusted gross income of the taxpayer for the tax year is \$180,000 or more and less than
34 \$200,000 or, if reported on other than a joint return, \$90,000 or more and less than \$100,000.

35 (2) If the federal adjusted gross income of the taxpayer for the tax year is \$200,000 or
36 more if reported on a joint income tax return, or \$100,000 or more if reported on other than
37 a joint income tax return, the limit is zero and the taxpayer is not allowed a subtraction
38 from federal taxable income or an exemption under section 4 of this 2018 Act.

39 **SECTION 7.** If an account holder withdraws funds from a first-time home buyer savings
40 account for a purpose other than paying or reimbursing an account holder for eligible costs
41 related to the purchase of a single family residence:

42 (1) The withdrawn funds must be included in the account holder's taxable income; and

43 (2) The account holder shall pay a penalty to the Department of Revenue equal to 10
44 percent of the amount withdrawn. The penalty does not apply to funds withdrawn from an
45 account that were:

1 (a) Withdrawn by reason of the account holder's death or disability;

2 (b) A disbursement of assets of the account pursuant to a filing for protection under the
3 United States Bankruptcy Code, 11 U.S.C. 101 et seq.; or

4 (c) Transferred from an account into another account established in accordance with
5 section 3 (6) of this 2018 Act.

6 **SECTION 8.** The Department of Revenue shall create a means for designating the sub-
7 traction to which an account holder is entitled under sections 4 and 6 of this 2018 Act in the
8 individual state income tax return form required to be filed under ORS chapter 316.

9 **SECTION 9.** (1) On or before January 31 of each year, a financial institution at which an
10 account holder has created a first-time home buyer savings account shall provide to the ac-
11 count holder a certificate containing the following information:

12 (a) The date when the account was created;

13 (b) The name of the account holder;

14 (c) The amount of funds contributed to the account during the tax year;

15 (d) The amount of funds withdrawn from the account during the tax year; and

16 (e) Any other information as required by rules adopted by the Department of Revenue.

17 (2) A financial institution is not required to:

18 (a) Track the use of moneys withdrawn from a first-time home buyer savings account;
19 or

20 (b) Allocate funds in a first-time home buyer savings account among joint account hold-
21 ers.

22 (3) A financial institution is not responsible or liable for:

23 (a) Determining or ensuring that an account satisfies the requirements to be a first-time
24 home buyer savings account;

25 (b) Determining or ensuring that funds in a first-time home buyer savings account are
26 used for eligible costs; or

27 (c) Reporting or remitting taxes or penalties related to the use of a first-time home buyer
28 savings account.

29 (4) Upon being furnished proof of the death of the account holder and such other infor-
30 mation required by the contract governing the first-time home buyer savings account, a fi-
31 nancial institution shall distribute the principal and accumulated interest or other income
32 in the first-time home buyer savings account in accordance with the terms of the contract
33 governing the account.

34 **SECTION 10.** The Department of Revenue may adopt rules to implement and administer
35 sections 1 to 10 of this 2018 Act.

36 **SECTION 11.** (1) Sections 1 to 10 of this 2018 Act apply to tax years beginning on or after
37 January 1, 2019, and before January 1, 2025.

38 (2) Notwithstanding subsection (1) of this section, funds contributed to a first-time home
39 buyer savings account established under sections 1 to 10 of this 2018 Act before January 1,
40 2025, shall continue to be exempt from taxation for the period and on the terms for which
41 the exemption was granted under sections 1 to 10 of this 2018 Act.

42 **SECTION 12.** ORS 205.323 is amended to read:

43 205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320
44 and other fees, the county clerk shall charge and collect the following fees for the recording or fil-
45 ing of any instrument described in ORS 205.130:

- 1 (a) A fee of \$1, to be credited as provided in subsection (4)(a) of this section;
2 (b) A fee of \$10, to be credited as provided in subsection (4)(b) of this section; and
3 (c) A fee of [~~\$20~~] **\$75**, to be credited as provided in subsection (4)(c) of this section.
- 4 (2) Subsection (1) of this section does not apply to the recording or filing of the following:
- 5 (a) Instruments that are otherwise exempt from recording or filing fees under any provision of
6 law;
- 7 (b) Any satisfaction of judgment or certificate of satisfaction of judgment; or
8 (c) Internal county government instruments not otherwise charged a recording or filing fee.
- 9 (3) Subsection (1)(c) of this section does not apply to the recording or filing of:
- 10 (a) Instruments required under ORS 517.210 to maintain mining claims;
11 (b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and
12 657.646; or
13 (c) A certified copy of a judgment, a lien record abstract as described in ORS 18.170 or a sat-
14 isfaction of a judgment, including a judgment noticed by recordation of a lien record abstract.
- 15 (4) Of the amounts charged and collected under this section:
- 16 (a) The recording or filing fee charged and collected under subsection (1)(a) of this section must
17 be deposited and credited to the Oregon Land Information System Fund established under ORS
18 306.132.
- 19 (b) The recording or filing fee charged and collected under subsection (1)(b) of this section shall
20 be credited as follows:
- 21 (A) Five percent of the fee must be credited for the benefit of the county;
22 (B) Five percent of the fee must be credited for the benefit of the county clerk for the purposes
23 described in ORS 205.320 (2); and
24 (C) 90 percent of the fee must be credited to and deposited in the County Assessment and Tax-
25 ation Fund created under ORS 294.187.
- 26 (c) The recording or filing fee charged and collected under subsection (1)(c) of this section must
27 be credited to and deposited in the County Assessment and Taxation Fund created under ORS
28 294.187.
- 29 (5) The Department of Revenue [*is*] **and county tax collectors are** exempt from paying the fee
30 under subsection (1)(c) of this section.
- 31 **SECTION 13.** ORS 306.815 is amended to read:
- 32 306.815. (1) A city, county, district or other political subdivision or municipal corporation of this
33 state shall not impose, by ordinance or other law, a tax or fee upon the transfer of a fee estate in
34 real property, or measured by the consideration paid or received upon transfer of a fee estate in real
35 property.
- 36 (2) A tax or fee upon the transfer of a fee estate in real property does not include any fee or
37 charge that becomes due or payable at the time of transfer of a fee estate in real property, unless
38 that fee or charge is imposed upon the right, privilege or act of transferring title to real property.
- 39 (3) Subsection (1) of this section does not apply to any fee established under ORS 203.148.
- 40 (4) Subsection (1) of this section does not apply to any tax if the ordinance or other law im-
41 posing the tax is in effect and operative on March 31, 1997.
- 42 (5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the
43 transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the re-
44 cording or filing of the instrument conveying the real property being transferred, is less than [~~\$32~~]
45 **\$107**.

1 **SECTION 14.** ORS 458.655 is amended to read:

2 458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and
3 Community Services Department to expand this state's supply of homeownership housing for [*low*
4 *and very low income*] families and individuals **who have income that is not more than 100 percent**
5 **of median family income**, including, but not limited to, persons over 65 years of age, persons with
6 disabilities, minorities, veterans and farmworkers. An amount equal to 25 percent of moneys depos-
7 ited in the account pursuant to ORS 294.187 is dedicated for expenditure to expand this state's
8 supply of homeownership housing for low and very low income veterans and families of veterans.
9 The Oregon Housing Stability Council shall have a policy of distributing funds statewide while
10 concentrating funds in those areas of this state with the greatest need, as determined by the council,
11 for low and very low income homeownership housing. However, the council's policy of distributing
12 funds may differ from the distribution policy for the Housing Development and Guarantee Account.

13 (2) Funds in the Home Ownership Assistance Account shall be granted to organizations that
14 both sponsor and manage low income homeownership programs, including lease-to-own programs, for
15 the construction of new homeownership housing or for the acquisition or rehabilitation of existing
16 structures for homeownership housing for persons of low or very low income, or both.

17 (3) The council shall develop a policy for disbursing grants for any or all of the following pur-
18 poses:

19 (a) To aid low income homeownership programs, including program administration, in purchas-
20 ing land, providing assistance with down payment costs, or providing homeownership training and
21 qualification services or any combination thereof. Funds in the Home Ownership Assistance Account
22 may not be used by an organization to pay for its general operations or to pay for more than 25
23 percent of construction or rehabilitation costs.

24 (b) To match public and private moneys available from other sources for purposes of the pro-
25 vision of low or very low income homeownership housing.

26 (c) To administer the Home Ownership Assistance Account as provided for in the legislatively
27 approved budget, as that term is defined in ORS 291.002, for the department.

28 (4) The council, in developing policy under subsection (3) of this section, shall give preference
29 in making grants to those entities that propose to:

30 (a) Provide the greatest number of low and very low income homeownership housing units con-
31 structed, acquired or rehabilitated for the amount of account money expended by matching account
32 funds with other grant, loan or eligible in-kind contributions;

33 (b) Ensure the longest use for the units as low or very low income homeownership housing units,
34 such as by including some form of equity recapture, land trust or shared equity provisions, as de-
35 termined by the council;

36 (c) Include social services for occupants and proposed occupants of the proposed housing[,] in-
37 cluding, but not limited to, programs that address home health care, mental health care, alcohol and
38 drug treatment and post-treatment care, child care, homeownership training, mortgage qualification
39 service, credit repair and case management; and

40 (d) Support a comprehensive strategy to reverse the decreasing rates of homeownership among
41 minorities, giving priority to activities that support adopted comprehensive community plans that
42 incorporate recognized best practices or demonstrate proven success in increasing homeownership
43 for minorities.

44 **SECTION 15.** The amendments to ORS 458.655 by section 14 of this 2018 Act apply to
45 moneys deposited in the Home Ownership Assistance Account on or after the effective date

1 of this 2018 Act.

2 SECTION 16. This 2018 Act takes effect on the 91st day after the date on which the 2018
3 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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