

B-Engrossed House Bill 4028

Ordered by the Senate March 2
Including House Amendments dated February 26 and Senate Amendments
dated March 2

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

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.

Limits expenses for which dependent care income tax credit may be claimed to [*combination of*] earned income taxable by Oregon [*and imputed income*], using lesser amount attributable to either spouse on joint return. [*Provides for calculation based upon imputed income to allow degree-seeking enrolled student to claim credit.*]

Modifies annual limitation on total amount of tax credits for production or collection of bovine manure allowed for all taxpayers by tying limitation to calendar year instead of tax year. Modifies terms.

Provides that qualified borrower on loan related to manufactured dwelling park for which lending institution may be allowed tax credit for qualified loan includes nonprofit corporation or housing authority with controlling interest in real property.

Applies to tax years beginning on or after January 1, 2018.

Allows Legislative Assembly to appropriate to Oregon Production Investment Fund balance of amount allowed for certification, but not certified, for tax credit for contributions to fund for current or upcoming fiscal year.

Applies to fiscal years beginning on or after July 1, 2017.

Provides for transfer and abatement of clawback of property taxes not imposed with respect to land that ceases to be exempt as land held for cemetery or crematory purposes if land is purchased for purpose of providing low income housing subject to certain property tax exemption programs for at least 10 consecutive property tax years.

Adjusts sunset date for property tax exemption for low income rental housing.

For purposes of certain economic development property tax benefits, provides that "eligible location" includes location not formerly used for industrial purposes and "eligible property" may be property appraised either by county or by Department of Revenue and clarifies definition of "rural area."

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax expenditures; creating new provisions; amending ORS 307.517, 307.518, 307.523,
3 307.529, 307.535, 315.176, 315.184, 315.264, 315.516 and 317.097 and section 1, chapter 112, Oregon
4 Laws 2016; and prescribing an effective date.

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

6 **SECTION 1.** ORS 315.176 is amended to read:

7 315.176. (1) As used in this section:

8 (a) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been con-
9 verted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct
10 biomass energy use at the biofuel producer's site.

11 (b) "Biofuel producer" means a person that, through activities in Oregon:

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

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

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 (C) Uses biomass in Oregon to produce energy.

2 (c) "Bovine manure" means, subject to subsection (2) of this section, [cow] **cattle** manure that
3 is produced [by cows] on Oregon farms.

4 (d) "Bovine manure producer or collector" means a person that produces or collects bovine
5 manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

6 (e) **"Cattle" means cows, heifers, bulls, steers or calves.**

7 (2) The Director of Agriculture may adopt rules to define criteria, only as the criteria apply to
8 bovine manure, to determine additional characteristics of bovine manure for purposes of this section.

9 (3)(a) A bovine manure producer or collector shall be allowed a credit against the taxes that
10 would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS
11 chapter 317 or 318 for the collection of bovine manure in Oregon that is used, in Oregon, as biofuel
12 or to produce biofuel.

13 (b) A credit under this section may be claimed in the tax year in which the credit is certified
14 under this section.

15 (c) A credit under this section may be claimed only once for each wet ton of bovine manure.

16 (4) The amount of the credit shall be calculated at a rate of \$3.50 per wet ton, as certified under
17 this section.

18 (5)(a) The State Department of Agriculture may establish by rule procedures and criteria for
19 determining the amount of the tax credit to be certified under this section. The department shall
20 provide written certification to taxpayers that are eligible to claim the credit under this section.

21 (b) The State Department of Agriculture may charge and collect a fee from taxpayers for certi-
22 fication of credits under this section. The fee may not exceed the cost to the department of issuing
23 certifications.

24 (6) All fees collected under this section shall be deposited in the State Treasury to the credit
25 of the Department of Agriculture Service Fund. Moneys deposited under this section are contin-
26 uously appropriated to the department for the purpose of administering and enforcing the provisions
27 of this section.

28 (7)(a) The Department of Revenue may [by rule] require that the State Department of Agricul-
29 ture provide information about the certification issued under this section, including the name and
30 taxpayer identification number of the taxpayer or other person receiving certification, the date the
31 certification was issued in its final form, the approved amount of credit and the first tax year for
32 which the credit may be claimed.

33 (b) A taxpayer that is a pass-through entity that has received certification under this section
34 shall provide [the information described in paragraph (a) of this subsection] to the Department of
35 Revenue within two months after the close of the tax year in which the certification was issued **the**
36 **name, taxpayer identification number and any other information required by the department**
37 **of each owner receiving a distributive share of the credit, in a manner prescribed by the**
38 **department.**

39 [(c) The Department of Revenue shall prescribe by rule the manner and the timing of submission
40 of the information to the department.]

41 (8) The amount of the credit claimed under this section for any tax year may not exceed the tax
42 liability of the taxpayer.

43 (9) Each bovine manure producer or collector shall maintain a record of the written certification
44 of the amount of the tax credit under this section for a period of at least five years after the tax
45 year in which the credit is claimed and provide the written certification to the Department of Re-

1 venue upon request.

2 (10) The credit shall be claimed on a form prescribed by the Department of Revenue that con-
3 tains the information required by the department.

4 (11) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
5 a particular tax year may be carried forward and offset against the taxpayer's tax liability for the
6 next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be
7 carried forward and used in the second succeeding tax year, and likewise any credit not used in that
8 second succeeding tax year may be carried forward and used in the third succeeding tax year, and
9 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
10 succeeding tax year, but may not be carried forward for any tax year thereafter.

11 (12) In the case of a credit allowed under this section:

12 (a) A nonresident shall be allowed the credit under this section in the proportion provided in
13 ORS 316.117.

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

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

20 **SECTION 2.** ORS 315.184 is amended to read:

21 315.184. The total amount [*claimed*] **certified by the State Department of Agriculture** for tax
22 credits for the production or collection of bovine manure under ORS 315.176 may not exceed \$5
23 million for all taxpayers for any [*tax*] **calendar** year. If the [*State*] department [*of Agriculture*] re-
24 ceives applications for the credit sufficient to exceed this amount, the department shall by rule
25 proportionately reduce the amount of certified credits among all taxpayers applying for the credit.

26 **SECTION 3.** ORS 317.097 is amended to read:

27 317.097. (1) As used in this section:

28 (a) "Annual rate" means the yearly interest rate specified on the note, and not the annual per-
29 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

30 (b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed
31 by the lending institution, and other charges related to the cost of obtaining credit.

32 (c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008,
33 any mortgage banking company that maintains an office in this state or any community development
34 corporation that is organized under the Oregon Nonprofit Corporation Law.

35 (d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

36 (e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section
37 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2016.

38 (f) "Preservation project" means housing that was previously developed as affordable housing
39 with a contract for rent assistance from the United States Department of Housing and Urban De-
40 velopment or the United States Department of Agriculture and that is being acquired by a spon-
41 soring entity.

42 (g) "Qualified assignee" means any investor participating in the secondary market for real estate
43 loans.

44 (h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling
45 interest in the real property that is financed by a qualified loan. A controlling interest includes,

1 *but is not limited to,*] a controlling interest in the general partner of a limited partnership that owns
2 the real property.

3 (i) “Qualified loan” means:

4 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-
5 finance a loan that meets the criteria described in subsection (5) of this section; or

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

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

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

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

20 (b) The amount of finance charge that would have been charged during the taxable year by the
21 lending institution for the qualified loan for housing construction, development, acquisition or re-
22 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans
23 made under like terms and conditions at the time the qualified loan for housing construction, de-
24 velopment, acquisition or rehabilitation is made.

25 (3) The maximum amount of credit for the difference between the amounts described in sub-
26 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
27 the qualified loan during the tax year for which the credit is claimed.

28 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
29 year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding
30 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
31 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding
32 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
33 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
34 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
35 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

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

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

43 (b) A qualified borrower who:

44 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
45 of housing; and

1 (B) Provides a written certification executed by the Housing and Community Services Depart-
2 ment that the:

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

5 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
6 or will be passed on to the tenants in the form of reduced housing payments;

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

8 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
9 of housing consisting of a manufactured dwelling park; and

10 (B) Provides a written certification executed by the Housing and Community Services Depart-
11 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-
12 riod for which the tax credit is allowed; or

13 (d) A qualified borrower who:

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

16 (B) Provides a written certification executed by the Housing and Community Services Depart-
17 ment that the housing preserved by the loan:

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

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

23 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-
24 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-
25 tion.

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

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

30 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-
31 tion.

32 (8) The Housing and Community Services Department may certify qualified loans that are eligi-
33 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible
34 for credits under this section and then outstanding do not exceed \$25 million for any fiscal year. In
35 making loan certifications under subsection (7) of this section, the Housing and Community Services
36 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax
37 credits in those areas of the state that are determined by the Oregon Housing Stability Council to
38 have the greatest need for affordable housing.

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

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

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

44 (10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the pur-
45 chase of bonds, the interest of which is exempt from federal taxation under section 103 of the

1 Internal Revenue Code, the amount of finance charge that would have been charged under sub-
2 section (2)(b) of this section is determined by reference to the finance charge that would have been
3 charged if the federally tax exempt bonds had been issued and the tax credit under this section did
4 not apply.

5 (11) A lending institution may sell a qualified loan for which a certification has been executed
6 to a qualified assignee whether or not the lending institution retains servicing of the qualified loan
7 so long as a designated lending institution maintains records, annually verified by a loan servicer,
8 that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

9 (12) Notwithstanding any other provision of law, a lending institution that is a community de-
10 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer all or
11 part of a tax credit allowed under this section to one or more other lending institutions that are
12 stockholders or members of the community development corporation or that otherwise participate
13 through the community development corporation in the making of one or more qualified loans for
14 which the tax credit under this section is allowed.

15 (13) The lending institution shall file an annual statement with the Housing and Community
16 Services Department, specifying that it has conformed with all requirements imposed by law to
17 qualify for a tax credit under this section.

18 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to
19 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park
20 under subsection (5)(c) of this section must be:

21 (a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state govern-
22 mental entity, local unit of government as defined in ORS 466.706 or housing authority; **or**

23 (b) **A nonprofit corporation or housing authority that has a controlling interest in the**
24 **real property that is financed by a qualified loan. A controlling interest includes a controlling**
25 **interest in the general partner of a limited partnership that owns the real property.**

26 (15) The Housing and Community Services Department and the Department of Revenue may
27 adopt rules to carry out the provisions of this section.

28 **SECTION 4. The amendments to ORS 315.176, 315.184 and 317.097 by sections 1 to 3 of this**
29 **2018 Act apply to tax years beginning on or after January 1, 2018.**

30 **SECTION 5. ORS 315.516 is amended to read:**

31 315.516. (1) In lieu of the issuance of certifications for tax credit under ORS 315.514 by the
32 Oregon Film and Video Office, the Legislative Assembly may, no later than 30 days prior to the end
33 of each fiscal year, appropriate to the Oregon Business Development Department for deposit into the
34 Oregon Production Investment Fund an amount equal to the total amount that would otherwise be
35 certified for tax credits during the **current or** upcoming fiscal year, based on the amount of con-
36 tributions and accompanying applications for credit received by the office during the fiscal year **and**
37 **reduced by the amount, if any, previously certified for the credit for the corresponding fiscal**
38 **year.**

39 (2) If the Legislative Assembly makes the election allowed in subsection (1) of this section:

40 (a) **No additional amount of credits may be certified for the corresponding fiscal year;**
41 **and**

42 [(a)] (b) Any contributions to the Oregon Production Investment Fund made for the upcoming
43 fiscal year and for which an application for a credit under ORS 315.514 is [pending] **denied** shall,
44 at the request of the taxpayer, be refunded by the Oregon Film and Video Office[; and].

45 [(b) A credit under ORS 315.514 may not be claimed for any contribution made during the current

1 *fiscal year.]*

2 **SECTION 6. The amendments to ORS 315.516 by section 5 of this 2018 Act apply to fiscal**
 3 **years beginning on or after July 1, 2017.**

4 **SECTION 7.** ORS 315.264 is amended to read:

5 315.264. (1)(a) A credit against the tax otherwise due under ORS chapter 316 shall be allowed
 6 a taxpayer in an amount equal to a percentage of employment-related expenses of a type allowable
 7 as a credit pursuant to section 21 of the Internal Revenue Code, notwithstanding the limitation im-
 8 posed by section 21(c) of the Internal Revenue Code, and limited as provided in paragraph (c) of this
 9 subsection.

10 (b) The credit allowed under this section may be claimed for expenses for care of a qualifying
 11 individual that allow a nonmarried taxpayer to seek employment or to attend school on a full-time
 12 or part-time basis.

13 (c) The employment-related expenses for which a credit is claimed under this section may not
 14 exceed the [*lesser*] **least** of:

15 [(A) *Income earned in Oregon and reported on the taxpayer's return; or*]

16 **(A) Earned income taxable by Oregon and reportable on the taxpayer's return;**

17 **(B) The lesser amount of earned income taxable by Oregon earned by either spouse, if**
 18 **reportable on a joint return; or**

19 [(B)] **(C) \$12,000 for a taxpayer for which there is one qualifying individual, or \$24,000 for a**
 20 **taxpayer for which there are two or more qualifying individuals.**

21 (d) The limitations in paragraph [(c)] **(c)(C) of** this subsection shall be reduced by the aggregate
 22 amount excludable under section 129 of the Internal Revenue Code for the tax year.

23 (2) The applicable percentage described in subsection (1) of this section shall be determined in
 24 accordance with the following table:

25 _____

26

Greater of Federal or Oregon Adjusted Gross Income, as Percentage of Federal Poverty Level		Applicable percentage based on age of youngest qualifying individual on January 1 of tax year				
		At least 6 years but less than			At least 13, or at least 18 years or older if disabled	
		Under 3 years	At least 3 years but less than 6	13 but less than 18 if disabled	18 years or older if disabled	
Greater than	Less than or equal to	10%	8%	5%	5%	5%
10%	20%	20%	18%	15%	5%	5%
20%	30%	30%	28%	25%	10%	10%
30%	40%	40%	38%	35%	20%	20%
40%	50%	50%	48%	45%	30%	30%
50%	60%	55%	53%	50%	35%	35%

32 _____

1	60%	70%	60%	58%	55%	40%
2	70%	80%	65%	63%	60%	45%
3	80%	90%	70%	68%	65%	50%
4	90%	110%	75%	73%	70%	55%
5	110%	120%	71%	69%	66%	50%
6	120%	130%	66%	64%	61%	45%
7	130%	140%	61%	59%	56%	39%
8	140%	150%	55%	53%	50%	33%
9	150%	160%	50%	48%	45%	28%
10	160%	200%	47%	45%	42%	25%
11	200%	210%	45%	43%	40%	22%
12	210%	220%	40%	38%	35%	20%
13	220%	230%	35%	33%	30%	15%
14	230%	240%	30%	28%	25%	10%
15	240%	250%	20%	18%	15%	5%
16	250%	260%	10%	8%	5%	5%
17	260%	280%	6%	6%	4%	4%
18	280%	300%	4%	4%	4%	4%
19	300%	-	0%	0%	0%	0%

20

21

22 (3) The applicable percentage for a household in excess of eight members shall be calculated as
 23 if for a household size of eight members.

24 [(4) *The credit under this section is not allowed.*]

25 [(a) *To a taxpayer with federal adjusted gross income or Oregon adjusted gross income, whichever*
 26 *is greater, in excess of 300 percent of the federal poverty level; or]*

27 [(b) *To any taxpayer who does not report earned income that is taxable by Oregon on the*
 28 *taxpayer's return.*]

29 **(4) The credit under this section is not allowed to a taxpayer with federal adjusted gross**
 30 **income or Oregon adjusted gross income, whichever is greater, in excess of 300 percent of**
 31 **the federal poverty level.**

32 (5) In order to ensure compliance with the eligibility requirements of the credit allowed under
 33 this section, the Department of Revenue shall be afforded access to utilization data maintained by
 34 the Department of Human Services in its administration of the Employment Related Day Care pro-
 35 gram.

36 (6) The Department of Revenue may assess a penalty in an amount not to exceed 25 percent of
 37 the amount of credit claimed by the taxpayer against any taxpayer who knowingly claims or at-
 38 tempts to claim any amount of credit under this section for which the taxpayer is ineligible, or
 39 against any individual who knowingly assists another individual in claiming any amount of credit
 40 for which the individual is ineligible.

41 (7) The Department of Revenue may adopt rules for carrying out the provisions of this section
 42 and prescribe the form used to claim a credit and the information required on the form.

43 (8) A nonresident individual shall be allowed the credit computed in the same manner and sub-
 44 ject to the same limitations as the credit allowed a resident by subsection (1) of this section.
 45 However, the credit shall be prorated using the proportion provided in ORS 316.117.

1 (9) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
2 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
3 lowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

4 (10) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
5 resident occurs, the credit allowed by this section shall be determined in a manner consistent with
6 ORS 316.117.

7 (11) If the amount allowable as a credit under this section, when added to the sum of the
8 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment amounts
9 and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for
10 the tax year after application of any nonrefundable credits allowable for purposes of ORS chapter
11 316 for the tax year, the amount of the excess shall be refunded to the taxpayer as provided in ORS
12 316.502.

13 (12) Any amount that is refunded to the taxpayer under this section and that is in excess of the
14 tax liability of the taxpayer does not bear interest.

15 **SECTION 8. The amendments to ORS 315.264 by section 7 of this 2018 Act apply to tax**
16 **years beginning on or after January 1, 2018.**

17 **SECTION 9. (1) Notwithstanding ORS 92.095, 307.155 and 311.411, if land that is exempt**
18 **under ORS 307.150 ceases to be used or held exclusively for cemetery or crematory purposes,**
19 **the additional taxes that would otherwise be due under ORS 307.155 (2) shall remain a po-**
20 **tential tax liability that is not imposed if:**

21 (a) **As of the date of sale or other transfer of title to the land, the land is being used or**
22 **held for the purpose of providing low income housing that will be exempt from ad valorem**
23 **property taxation under ORS 307.515 to 307.523 or 307.540 to 307.548; and**

24 (b) **All other requirements set forth in subsections (2) to (5) of this section are met.**

25 (2) **At the time of recording the deed to the land with the county clerk, the owner of the**
26 **land shall file with the assessor of the county, and the governing body of the city or county**
27 **that adopted the low income housing exemption, as applicable, in which the land is located**
28 **a notice of intent:**

29 (a) **To apply for the exemption for low income housing under ORS 307.515 to 307.523 or**
30 **307.540 to 307.548 on the land; and**

31 (b) **To benefit from the provisions of this section.**

32 (3)(a) **The owner of the land must file the application for exemption, as applicable:**

33 (A) **Under ORS 307.521, no later than the deadlines set forth in ORS 307.523 that first**
34 **occur after the date on which the owner recorded the deed to the land; or**

35 (B) **Under ORS 307.545, no later than the deadlines set forth in that section that first**
36 **occur after the date on which the owner recorded the deed to the land.**

37 (b) **If the governing body to which the owner applies denies the application, the additional**
38 **taxes described in ORS 307.155 (2) become due on the land.**

39 (4) **If the land is held for the purpose of developing low income housing for a period ex-**
40 **ceeding the reasonable maximum period, if any, adopted by the governing body of the city**
41 **or county under ORS 307.517, 307.518 or 307.541, as applicable to the exemption granted for**
42 **the land, the additional taxes described in ORS 307.155 (2) become due on the land.**

43 (5)(a) **If the land is not used to provide low income housing that is exempt under ORS**
44 **307.515 to 307.523 or 307.540 to 307.548 for at least 10 consecutive property tax years, the ad-**
45 **ditional taxes described in ORS 307.155 (2) become due on the land. Any period for which the**

1 land is held for the purpose of developing low income housing on the land does not count
2 toward the 10 consecutive property tax years.

3 (b) After the land has been used to provide low income housing that is exempt under ORS
4 307.515 to 307.523 or 307.540 to 307.548 for at least 10 consecutive property tax years, the po-
5 tential tax liability of the land for the additional taxes described in ORS 307.155 (2) shall end.

6 (6) Additional taxes that become due on the land under this section:

7 (a) Shall be added to the next general property tax roll, to be collected and distributed
8 in the same manner as other real property taxes.

9 (b) Are in addition to any additional taxes or other charges that become due upon dis-
10 qualification of property exempt under ORS 307.515 to 307.523 or 307.540 to 307.548.

11 (7) The lien for additional taxes that become due under this section, and the interest on
12 the additional taxes, shall attach as of July 1 of the property tax year in which the additional
13 taxes become due under this section.

14 (8) For each year that the additional taxes described in ORS 307.155 (2) remain a potential
15 tax liability that is not imposed under this section, the assessor shall enter on the assess-
16 ment and tax roll, with respect to the land, the notation “(potential additional tax).”

17 (9) The amount of additional taxes determined to be due under this section may be paid
18 to the tax collector prior to the completion of the next general property tax roll, pursuant
19 to ORS 311.370.

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

22 **SECTION 10.** ORS 307.517 is amended to read:

23 307.517. (1) Property or a portion of the property is exempt from taxation as provided under ORS
24 307.515 to 307.523 if:

25 (a) The property is:

26 (A) Offered for rent; or

27 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
28 reasonable maximum period, if any, adopted by the governing body;

29 (b) The property, if occupied, is occupied solely by low income persons;

30 (c) The required rent payment reflects the full value of the property tax exemption;

31 (d) The exemption has been approved as provided in ORS 307.523, **pursuant to an application**
32 **filed before July 1, 2020;**

33 (e) The housing units on the property were constructed after the local governing body adopted
34 the provisions of ORS 307.515 to 307.523; and

35 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
36 criteria adopted by the governing body.

37 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
38 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
39 this section.

40 (3) For the purposes of subsection (1) of this section, a person that has only a leasehold interest
41 in property is deemed to be a purchaser of that property if:

42 (a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real
43 and personal property used in this activity on that property; or

44 (b) The rent payable has been established to reflect the savings resulting from the exemption
45 from taxation.

SECTION 11. ORS 307.518 is amended to read:

307.518. (1) Property or a portion of property is exempt from taxation as provided under ORS 307.515 to 307.523 if:

(a) The property, if unoccupied, is:

(A) Offered for rental solely as a residence for low income persons; or

(B) Held for the purpose of developing low income rental housing, for a period not exceeding a reasonable maximum period, if any, adopted by the governing body;

(b) The property, if occupied, is occupied solely as a residence for low income persons;

(c) An exemption for the property has been approved as provided under ORS 307.523, pursuant to an application filed before [January] **July 1, 2020**;

(d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation or a religious corporation, both terms as defined in ORS 65.001;

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of the nonprofit corporation's annual income from residential rentals for purposes other than the acquisition, maintenance or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents of the rental property; and

(f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other criteria adopted by the governing body.

(2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of this section.

(3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property; or

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS 307.515 to 307.523.

SECTION 12. ORS 307.523 is amended to read:

307.523. (1) Application shall be made on or before December 1 of the calendar year immediately preceding the first assessment year for which exemption is requested, and shall be accompanied by the application fee required under ORS 307.527. However, if the property is acquired after November 1, the application shall be made within 30 days after the date of acquisition.

(2) Within 60 days of the filing of an application under ORS 307.521, the governing body shall take final action upon the application as provided under ORS 307.527, and certify the results of the action to the county assessor, as set forth in ORS 307.512.

(3) Upon receipt of certification under subsection (2) of this section, the county assessor shall exempt the property from taxation to the extent certified by the governing body.

(4) Notwithstanding the dates specified in ORS 307.517 and 307.518, property granted exemption pursuant to an application filed under ORS 307.517 or 307.518 before July 1, 2020, shall continue to receive the exemption on the same terms, including duration, on which the

1 **exemption was granted.**

2 **SECTION 13.** ORS 307.529 is amended to read:

3 307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS
4 307.517 has been approved under ORS 307.527, the governing body finds that construction or devel-
5 opment of the exempt property differs from the construction or development described in the appli-
6 cation for exemption, or is not completed on or before [January] **July 1, 2020**, or that any provision
7 of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing
8 body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give
9 notice of the proposed termination of the exemption to the owner, by mailing the notice to the
10 last-known address of the owner, and to every known lender, by mailing the notice to the last-known
11 address of every known lender. The notice shall state the reasons for the proposed termination and
12 shall require the owner to appear at a specified time, not less than 20 days after mailing the notice,
13 to show cause, if any, why the exemption should not be terminated.

14 (2) If the owner fails to appear and show cause why the exemption should not be terminated, the
15 governing body shall notify every known lender, and shall allow any lender not less than 30 days
16 after the date the notice of the failure to appear and show cause is mailed to cure any noncompli-
17 ance or to provide assurance adequate to the governing body that all noncompliance shall be rem-
18 edied.

19 (3) If the owner fails to appear and show cause why the exemption should not be terminated,
20 and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the gov-
21 erning body shall adopt an ordinance or resolution stating its findings terminating the exemption.
22 A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be
23 sent to the owner at the owner's last-known address and to the lender at the last-known address of
24 the lender within 10 days after its adoption.

25 **SECTION 14.** ORS 307.535 is amended to read:

26 307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

27 (1) If the governing body finds that construction of the housing unit otherwise entitled to ex-
28 emption under ORS 307.517 was not completed by [January] **July 1, 2020**, due to circumstances be-
29 yond the control of the owner, and that the owner had been acting and could reasonably be expected
30 to act in good faith and with due diligence, the governing body may extend the deadline for com-
31 pletion of construction for a period not to exceed 12 consecutive months.

32 (2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of
33 God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control
34 of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property
35 under ORS 307.531 or 307.533.

36 **SECTION 15.** Section 1, chapter 112, Oregon Laws 2016, is amended to read:

37 **Sec. 1.** (1) As used in sections 1 to 5 [of this 2016 Act], **chapter 112, Oregon Laws 2016:**

38 (a) "Eligible location" means land and improvements that are located in a rural area. **"Eligible**
39 **location" includes a location that has not formerly been used for industrial purposes.**

40 (b) "Eligible property" means improvements classified as industrial under rules established by
41 the Department of Revenue pursuant to ORS 308.215 (1)(a)(C), and associated personal property,
42 **whether appraised by the county or by the Department of Revenue, that:**

43 (A) Are newly constructed or installed at an eligible location; and

44 (B) Have a cost of initial investment to the purchaser of at least \$1 million and not more than
45 \$25 million.

1 (c) "Qualified property" means eligible property for which an application has been approved
2 under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016.**

3 (d) "Rural area" means an area located **in unincorporated territory, or in a city with a**
4 **population of less than 40,000, that is located** entirely outside of the urban growth [boundary of
5 a city with a population] **boundaries of any and all cities with populations** of 40,000 or more, as
6 the urban growth [boundary is] **boundaries are** acknowledged on the date on which an applicant
7 submits an application for eligible property under section 2 [of this 2016 Act], **chapter 112, Oregon**
8 **Laws 2016.**

9 (2)(a) The governing body of a city or county may adopt an ordinance or resolution granting a
10 property tax exemption for eligible property located within the boundaries of the city or county,
11 respectively.

12 (b) The terms of the exemption must conform to the provisions of sections 1 to 5 [of this 2016
13 Act], **chapter 112, Oregon Laws 2016.** In addition, an ordinance or resolution adopted under this
14 subsection shall establish standards for the imposition of conditions described in section 2 (4) [of this
15 2016 Act], **chapter 112, Oregon Laws 2016.**

16 (3)(a) Qualified property must be:

17 (A) Owned or leased by the applicant filing the application under section 2 [of this 2016 Act],
18 **chapter 112, Oregon Laws 2016.**

19 (B) Used through the final year of exemption for the purpose, and at the location, identified in
20 the application filed under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016.**

21 (b) The exemption:

22 (A) May be granted to eligible property only if the first assessment year to which the applica-
23 tion filed under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016,** relates is the first
24 assessment year that begins after the eligible property was first placed in service; and

25 (B) Shall be granted only for qualified property that was first placed in service after the ordi-
26 nance or resolution was adopted.

27 (4)(a) The exemption shall be granted as a 100 percent exemption of the real market value of the
28 qualified property for any three out of five consecutive property tax years.

29 (b) Notwithstanding paragraph (a) of this subsection, the city or county may specify in the or-
30 dinance or resolution:

31 (A) A minimum cost of initial investment greater than \$1 million.

32 (B) Any number of years not greater than five for which the exemption shall be granted.

33 (C) The percentage of the real market value of the qualified property granted exemption for each
34 year.

35 (D) Different schedules in each property tax year for the years and percentages described in
36 subparagraphs (B) and (C) of this paragraph, depending on the minimum costs of initial investment
37 of the qualified property.

38 (5)(a) An ordinance or resolution adopted pursuant to this section may not take effect unless,
39 upon request of the city or county that adopted the ordinance or resolution, the rates of taxation
40 of the taxing districts whose governing bodies agree to grant the exemption, when combined with
41 the rate of taxation of the city or county, equal 75 percent or more of the total combined rate of
42 taxation on the qualified property.

43 (b) Upon the taking effect of the ordinance or resolution, the exemption shall apply to all
44 property tax levies of all taxing districts in which qualified property is located.

45 (c) The decisions of the taxing districts under paragraph (a) of this subsection may not be

1 changed but are not binding with respect to an ordinance or resolution adopted pursuant to sub-
2 section (6) of this section or a new ordinance or resolution adopted pursuant to subsection (2) of this
3 section.

4 (d) All qualified property shall be granted exemption under this section, or deferral under sec-
5 tion 3 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, on the same terms provided in the ordi-
6 nance or resolution adopted or amended by the city or county and in effect on the date the
7 application is submitted under section 2 [of this 2016 Act], **chapter 112, Oregon Laws 2016**.

8 (6)(a) A city or county may adopt at any time an ordinance or resolution amending the terms
9 of an exemption granted pursuant to this section or a deferral granted pursuant to section 3 [of this
10 2016 Act], **chapter 112, Oregon Laws 2016**, subject to approval of the taxing districts under sub-
11 section (5)(a) of this section, or terminating the exemption or deferral.

12 (b) Notwithstanding an ordinance or resolution adopted under paragraph (a) of this subsection,
13 qualified property that has been granted an exemption pursuant to this section, or a deferral pur-
14 suant to section 3 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, shall continue to receive the
15 exemption or deferral under the terms in effect at the time the exemption or deferral was first
16 granted.

17 (7) If a city or county proposes an ordinance or resolution providing for an exemption on terms
18 other than the terms provided in subsection (4)(a) of this section, the ordinance or resolution may
19 not take effect unless the governing body of the city or county, as applicable, receives testimony
20 from the county assessor at a public hearing on the question regarding the cost and administration
21 of the proposed terms of the exemption.

22 (8)(a) Qualified property granted an exemption pursuant to this section, or a deferral pursuant
23 to section 3 [of this 2016 Act], **chapter 112, Oregon Laws 2016**, is not eligible for any other prop-
24 erty tax exemption or special assessment.

25 (b) Otherwise eligible property that has received another property tax exemption or special as-
26 sessment is not eligible for the exemption or deferral.

27 (c) Paragraphs (a) and (b) of this subsection do not apply to the exemption granted under ORS
28 307.330.

29 **SECTION 16. The amendments to section 1, chapter 112, Oregon Laws 2016, by section**
30 **15 of this 2018 Act apply to ordinances and resolutions adopted under section 1, chapter 112,**
31 **Oregon Laws 2016, on or after the effective date of this 2018 Act.**

32 **SECTION 17. This 2018 Act takes effect on the 91st day after the date on which the 2018**
33 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

34