

D R A F T

SUMMARY

Creates tax credit for certified historic property project contributions. Directs Department of Revenue, in cooperation with State Historic Preservation Officer, to conduct auction of tax credits.

Establishes State Historic Property Project Fund and requires that auction proceeds be deposited in fund for purpose of making rebates to property owners for eligible expenses for rehabilitation and seismic retrofitting of historic properties. Provides for payment of rebates from fund and for administration of rebate program by State Historic Preservation Officer. Limits amount of credits and corresponding rebates to \$_____ million for any biennium.

Applies to applications for rebates submitted after July 1, 2019, for tax years beginning on or after January 1, 2020, and before January 1, 2026.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a tax credit for funding historic property project expense rebates;
3 and prescribing an effective date.

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

5 **SECTION 1. Sections 4, 5 and 7 to 10 of this 2019 Act shall be known**
6 **and may be cited as the Preservation, Housing and Seismic Safety Act.**

7 **SECTION 2. The Legislative Assembly finds and declares that it is**
8 **the legislative intent of sections 4, 5 and 7 to 10 of this 2019 Act to**
9 **promote the retention, rehabilitation and adaptive reuse of Oregon's**
10 **historic properties, especially for the purposes of providing housing**
11 **and other public benefits and seismic retrofitting of properties to im-**
12 **prove public safety.**

13 **SECTION 3. Sections 4 and 5 of this 2019 Act are added to and made**

1 a part of ORS chapter 315.

2 **SECTION 4. (1) A credit against the taxes otherwise due under ORS**
3 **chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317**
4 **or 318, is allowed to a taxpayer for certified historic property project**
5 **contributions made by the taxpayer during the tax year to the State**
6 **Historic Property Project Fund established under section 9 of this 2019**
7 **Act.**

8 (2)(a) The Department of Revenue shall, in cooperation with the
9 State Historic Preservation Officer, conduct an auction of tax credits
10 under this section. The department may conduct the auction in the
11 manner that the department determines is best suited to maximize the
12 return to the state on the sale of tax credit certifications and shall
13 announce a reserve bid prior to conducting the auction. The reserve
14 amount shall be at least 95 percent of the total amount of the tax
15 credit. Moneys necessary to reimburse the department for the actual
16 costs incurred by the department in administering an auction, not to
17 exceed 0.25 percent of auction proceeds, are continuously appropriated
18 to the department. The department shall deposit net receipts from the
19 auction required under this section in the State Historic Property
20 Project Fund.

21 (b) The State Historic Preservation Officer shall adopt rules to
22 achieve the following goals:

23 (A) Subject to paragraph (a) of this subsection, to generate contri-
24 butions for which tax credits of \$_____ million are certified for each
25 fiscal year;

26 (B) To maximize income and excise tax revenues that are retained
27 by the State of Oregon for state operations; and

28 (C) To provide the necessary financial incentives for taxpayers to
29 make contributions, taking into consideration the impact of granting
30 a credit upon a taxpayer's federal income tax liability.

31 (3) Contributions made under this section shall be deposited in the

1 **State Historic Property Project Fund.**

2 (4)(a) Upon receipt of a contribution, the State Historic Preserva-
3 tion Officer shall issue to the taxpayer written certification of the
4 amount certified for tax credit under this section to the extent the
5 amount certified for tax credit, when added to all amounts previously
6 certified for tax credit under this section, does not exceed \$_____
7 million for the fiscal year in which certification is made.

8 (b) The State Historic Preservation Officer and the department are
9 not liable, and a refund of a contributed amount need not be made, if
10 a taxpayer who has received tax credit certification is unable to use
11 all or a portion of the tax credit to offset the tax liability of the tax-
12 payer.

13 (5) To the extent the State Historic Preservation Officer does not
14 certify contributed amounts as eligible for a tax credit under this
15 section, the taxpayer may request a refund of the amount the taxpayer
16 contributed, and the officer shall refund that amount.

17 (6)(a) Except as provided in paragraph (b) of this subsection, a tax
18 credit claimed under this section may not exceed the tax liability of
19 the taxpayer and may not be carried over to another tax year.

20 (b) Any tax credit otherwise allowable under this section that is not
21 used by the taxpayer in a particular tax year may be carried forward
22 and offset against the taxpayer's tax liability for the next succeeding
23 tax year. Any credit remaining unused in the next succeeding tax year
24 may be carried forward and used in the second succeeding tax year,
25 and likewise, any credit not used in that second succeeding tax year
26 may be carried forward and used in the third succeeding tax year, and
27 likewise, any credit not used in that third succeeding tax year may be
28 carried forward and used in the fourth succeeding tax year, and like-
29 wise, any credit not used in that fourth succeeding tax year may be
30 carried forward and used in the fifth succeeding tax year, but may not
31 be carried forward for any tax year thereafter.

1 (c) A taxpayer is not eligible for a tax credit under this section if
2 the first tax year for which the credit would otherwise be allowed be-
3 gins on or after January 1, 2026.

4 (7) If a tax credit is claimed under this section by a nonresident or
5 part-year resident taxpayer, the amount shall be allowed without pro-
6 ration under ORS 316.117.

7 (8) If the amount of contribution for which a tax credit certification
8 is made is allowed as a deduction for federal tax purposes, the amount
9 of the contribution shall be added to federal taxable income for Oregon
10 tax purposes.

11 SECTION 5. The State Historic Preservation Officer may hire or
12 contract with a marketer to market the tax credits allowed under
13 section 4 of this 2019 Act to taxpayers.

14 SECTION 6. Sections 7 to 10 of this 2019 Act are added to and made
15 a part of ORS chapter 358.

16 SECTION 7. As used in sections 7 to 10 of this 2019 Act:

17 (1)(a) “Eligible expenses” includes but is not limited to:

18 (A) Capital expenses incurred in the material rehabilitation of his-
19 toric property;

20 (B) Expenses directly related to structural seismic retrofitting, in-
21 cluding the necessary expenses of demolition and restoration of similar
22 architectural finishes, electrical systems, plumbing and mechanical
23 systems necessary for access; and

24 (C) Architectural and engineering fees, and fees for testing, insur-
25 ance and project management, related to the seismic retrofitting.

26 (b) “Eligible expenses” does not include:

27 (A) Expenses associated with refurbishing or remodeling that are
28 primarily intended to enhance the aesthetics, functionality or
29 marketability of the improvements but do not extend the seismic life
30 safety of the improvements; or

31 (B) Expenses for abatement of hazardous materials, including but

1 not limited to asbestos, or for relocation or loss of rent during the
2 seismic retrofitting.

3 (2) “Historic property” has the meaning given that term in ORS
4 358.480.

5 (3) “Historic rehabilitation standards” means the United States
6 Secretary of the Interior’s Standards for Rehabilitation as in effect on
7 the effective date of this 2019 Act.

8 (4) “Material rehabilitation” means improvements or reconstruction
9 consistent with the United States Secretary of the Interior’s Standards
10 for Rehabilitation as in effect on the effective date of this 2019 Act.

11 (5) “Multifamily” means being designed to contain more than one
12 living unit.

13 (6) “Placed in service” means, with respect to historic property,
14 placed in a condition or state of readiness and availability for a spe-
15 cifically assigned function in a trade or business, in the production of
16 income, including from multifamily residential rentals, or in a tax-
17 exempt activity.

18 (7) “Project” means material rehabilitation or seismic retrofitting
19 of a historic property.

20 (8)(a) “Property owner” means an owner of a historic property.

21 (b) “Property owner” includes a lessee of a historic property that
22 has received authorization for material rehabilitation or seismic
23 retrofitting of the historic property from the owner.

24 (9) “Rural area” means an area located entirely outside the ac-
25 knowledged Portland Metropolitan Area Regional Urban Growth
26 Boundary and the acknowledged urban growth boundaries of all cities
27 with populations of 30,000 or more.

28 (10) “Small project” means a project with eligible expenses of less
29 than \$1 million.

30 (11) “Workforce housing” means housing that is sold or rented at
31 a price that is affordable to a household with an annual income be-

1 **tween 80 and 120 percent of the area median income in the county in**
2 **which the housing is located.**

3 **SECTION 8. (1) To qualify under this section for a rebate for eligible**
4 **expenses incurred with respect to a project:**

5 **(a) The historic property must be located in Oregon;**

6 **(b) The historic property must be:**

7 **(A) Listed on the National Register of Historic Places on or before**
8 **January 1, 2020; or**

9 **(B) Designated as historic by a local government with jurisdiction**
10 **over the property;**

11 **(c) The eligible expenses must exceed \$10,000;**

12 **(d) The historic property may not be used exclusively for residential**
13 **purposes if it includes fewer than three residential units;**

14 **(e) The historic property must be an income-generating property;**
15 **and**

16 **(f) The property owner shall apply for and receive a certificate of**
17 **approval of the project from the State Historic Preservation Officer.**

18 **(2) The State Historic Preservation Officer may issue to a property**
19 **owner a certificate of eligibility indicating that the property owner**
20 **shall receive a rebate under this section on the condition that:**

21 **(a) The property owner completes material rehabilitation or seismic**
22 **retrofitting of the historic property according to plans approved by the**
23 **State Historic Preservation Officer; and**

24 **(b) The project adheres to the historic rehabilitation standards for**
25 **the exterior facade of the historic property and for significant public**
26 **interior spaces, allowing for changes of use and interior conversions**
27 **to multifamily residential use.**

28 **(3)(a) Eligible expenses supporting a claim for a rebate under this**
29 **section must be verified by the State Historic Preservation Officer.**
30 **The property owner must submit to the State Historic Preservation**
31 **Officer proof of expenses, including any documentation requested by**

1 **the State Historic Preservation Officer to verify the expenses.**

2 **(b) The State Historic Preservation Officer may adopt rules that**
3 **establish a procedure for the submission and verification of actual**
4 **expenses and may establish a fee for the administration of the rebate**
5 **program under this section.**

6 **(4)(a) After material rehabilitation or seismic retrofitting is com-**
7 **plete and a historic property is placed in service, the State Historic**
8 **Preservation Officer may issue a rebate to the property owner for a**
9 **portion of the eligible expenses incurred by the property owner, in an**
10 **amount determined under subsection (6) of this section, subject to**
11 **paragraph (b) of this subsection.**

12 **(b)(A) In issuing rebates, the State Historic Preservation Officer**
13 **shall give priority to:**

14 **(i) Creating or preserving workforce housing; and**

15 **(ii) Seismic retrofitting of unreinforced masonry buildings.**

16 **(B) The State Historic Preservation Officer may consult with the**
17 **Director of the Housing and Community Services Department, or a**
18 **designee of the director, regarding any issues related to workforce**
19 **housing.**

20 **(5)(a) Before a rebate may be issued for eligible expenses incurred**
21 **with respect to a workforce housing project, the property owner shall**
22 **execute a covenant creating a property right in the State Historic**
23 **Preservation Officer to require the historic property to be used as**
24 **workforce housing.**

25 **(b) A covenant executed under this subsection shall be recorded in**
26 **the deed and mortgage records of the county in which the historic**
27 **property subject to the covenant is located.**

28 **(c) A covenant executed under this subsection shall be for a period**
29 **of 60 years and run with the land.**

30 **(d) Notwithstanding paragraph (c) of this subsection, after 20 years**
31 **following a date on which a covenant issued under this subsection was**

1 originally executed, the covenant may be modified or terminated by a
2 written instrument executed by the State Historic Property Officer and
3 the property owner of the workforce housing at the time of the mod-
4 ification or termination.

5 (e) The State Historic Preservation Officer may bring suit to en-
6 force a covenant executed under this subsection in the circuit court
7 for the county in which the historic property is located.

8 (6) The maximum rebate for a single historic property:

9 (a) Shall be 25 percent of eligible expenses for material rehabili-
10 tation or 35 percent of eligible expenses for seismic retrofitting; and

11 (b) May not exceed the lesser of 10 percent of the maximum rebate
12 amount issuable for all historic properties for the biennium in which
13 the rebate is issued, as set forth in section 10 of this 2019 Act, or \$2
14 million.

15 (7) Rebates under this section shall be made from moneys credited
16 to or deposited in the State Historic Property Project Fund established
17 in section 9 of this 2019 Act. A rebate may not be made to the extent
18 sufficient funds are not available in the fund to make the rebate.

19 SECTION 9. (1) The State Historic Property Project Fund is estab-
20 lished in the State Treasury, separate and distinct from the General
21 Fund.

22 (2) Moneys in the State Historic Property Project Fund shall consist
23 of:

24 (a) Amounts donated to the fund;

25 (b) Amounts appropriated or otherwise transferred to the fund by
26 the Legislative Assembly;

27 (c) Other amounts deposited in the fund from any source; and

28 (d) Interest earned by the fund.

29 (3) Moneys in the fund are continuously appropriated to the State
30 Historic Preservation Officer. After the payment of refunds to tax-
31 payers as described in section 4 of this 2019 Act and payments to a tax

1 **credit marketer for marketing services provided by the marketer as**
2 **described in section 5 of this 2019 Act:**

3 (a) **Seventy percent of the balance remaining in the fund shall be**
4 **used to provide rebates to property owners as provided in section 8 of**
5 **this 2019 Act; and**

6 (b) **Thirty percent of the balance remaining in the fund shall be**
7 **used to provide rebates to property owners, as provided in section 8**
8 **of this 2019 Act, for eligible expenses of small projects. In making re-**
9 **bates under this paragraph, the State Historic Preservation Officer**
10 **shall give priority to historic properties located in rural areas.**

11 (4) **On July 1 of each fiscal year, any moneys that remain unex-**
12 **pendent or unallocated from the previous fiscal year may be used by**
13 **the State Historic Preservation Officer for the purpose of making re-**
14 **bates to property owners under section 8 of this 2019 Act.**

15 (5) **Expenditures from the fund are not subject to ORS 291.232 to**
16 **291.260.**

17 **SECTION 10. (1) The total amount of potential tax credits for cer-**
18 **tified historic property project contributions in this state may not, at**
19 **the time of certification under section 4 of this 2019 Act, exceed**
20 **\$_____ million for any biennium.**

21 (2) **In the event that the State Historic Preservation Officer receives**
22 **applications for rebates under section 8 of this 2019 Act in excess of**
23 **the contributions received pursuant to section 4 of this 2019 Act, the**
24 **State Historic Preservation Officer shall allocate the issuance of re-**
25 **bates according to standards and criteria established by rule by the**
26 **State Historic Preservation Officer.**

27 **SECTION 11. Sections 4, 5 and 7 to 10 of this 2019 Act apply to ap-**
28 **plications for rebates submitted after July 1, 2019, for tax years be-**
29 **ginning on or after January 1, 2020, and before January 1, 2026.**

30 **SECTION 12. This 2019 Act takes effect on the 91st day after the**
31 **date on which the 2019 regular session of the Eightieth Legislative**

1 **Assembly adjourns sine die.**

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