

House Bill 3240

Sponsored by Representatives HELT, ZIKA; Representatives BONHAM, BOSHART DAVIS, EVANS, HELM, HERNANDEZ, KENY-GUYER, MEEK, NERON, SOLLMAN, WILLIAMS, Senator KNOPP

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**.

Provides that registered or certified child care facility is commercial use of property for zoning purposes.

Creates income tax credit for lessors of real property leased to certified child care facilities. Creates income tax credit for child care facilities with staff members who earn 18 or more clock hours of training related to child care. Creates income tax credit for child care facilities rated three stars or higher with quality rating and improvement system. Applies to 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 child care; creating new provisions; amending ORS 314.752, 318.031 and 329A.440; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 329A.440 is amended to read:

6 329A.440. *[(1)]* **(1)(a)** A registered or certified family child care home *[shall be]* **is** considered a
7 residential use of property for zoning purposes. *[The]* **A** registered or certified family child care
8 home *[shall be]* **is** a permitted use in all areas zoned for residential or commercial purposes, in-
9 cluding areas zoned for single-family dwellings. A city or county may not enact or enforce zoning
10 ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or
11 commercial use, as a registered or certified family child care home.

12 **(b) A registered or certified child care facility is considered a commercial use of property**
13 **for zoning purposes. A registered or certified child care facility is a permitted use in all areas**
14 **zoned to allow any commercial use. A city or county may not enact or enforce zoning ordi-**
15 **nances prohibiting the use of a building located in an area zoned for commercial use as a**
16 **registered or certified child care facility.**

17 *[(2)]* **(2)(a)** A city or county may impose zoning conditions on the establishment and maintenance
18 of a registered or certified family child care home in an area zoned for residential or commercial
19 use if the conditions are no more restrictive than conditions imposed on other residential dwellings
20 in the same zone.

21 **(b) A city or county may impose zoning conditions on the establishment and maintenance**
22 **of a registered or certified child care facility in an area zoned for commercial use if the**
23 **conditions are no more restrictive than conditions imposed on other commercial uses in the**
24 **same zone.**

25 (3) A county may:

26 (a) Allow a registered or certified family child care home in an existing dwelling in any area
27 zoned for farm use, including an exclusive farm use zone established under ORS 215.203;

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 (b) Impose reasonable conditions on the establishment of a registered or certified family child
2 care home in an area zoned for farm use; and

3 (c) Allow a division of land for a registered or certified family child care home in an exclusive
4 farm use zone only as provided in ORS 215.263 (9).

5 (4) This section applies only to a registered or certified family child care home where child care
6 is offered in the home of the provider to not more than 16 children, including children of the pro-
7 vider, regardless of full-time or part-time status.

8 **SECTION 2. Sections 3, 4 and 5 of this 2019 Act are added to and made a part of ORS**
9 **chapter 315.**

10 **SECTION 3. (1) As used in this section:**

11 (a) “Child care facility” has the meaning given that term in ORS 329A.250.

12 (b) “Certified child care facility” means a child care facility that has been certified by the
13 Office of Child Care under ORS 329A.280 or has been issued a temporary certification under
14 ORS 329A.300.

15 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
16 payer is a corporation, under ORS chapter 317 or 318, is allowed to the lessor of real property
17 if the lessee or, if the lessee is not the person that is in possession of the property, the
18 person that is in possession of the property operates a certified child care facility on the
19 property.

20 (3) The credit allowed under this section is equal to 10 percent of the amount of rent to
21 be paid to the taxpayer over a 12-month period under the terms of the lease, sublease or
22 lease-purchase agreement.

23 (4) The credit allowed under this section may be claimed for the first tax year in which
24 a child care facility is actually operated on the property and for the next succeeding year,
25 but no credit is allowed under this section unless a certified child care facility was actually
26 operated on the property on the last day of the tax year in which the credit is claimed.

27 (5) The credit allowed under this section may not be claimed by more than one taxpayer
28 with respect to the same property during a tax year and may not be claimed by a lessor that
29 is a parent or subsidiary of the lessee or is otherwise closely related to the lessee.

30 (6) The credit must be claimed on a form prescribed by the Department of Revenue that
31 contains the information required by the department.

32 (7) The credit allowed under this section may not exceed the tax liability of the taxpayer
33 for the tax year.

34 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer
35 in a particular tax year may be carried forward and offset against the taxpayer’s tax liability
36 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
37 year may be carried forward and used in the second succeeding tax year, and likewise any
38 credit not used in that second succeeding tax year may be carried forward and used in the
39 third succeeding tax year but may not be carried forward for any tax year thereafter.

40 (9) A nonresident shall be allowed the credit under this section. The credit shall be
41 computed in the same manner and be subject to the same limitations as the credit granted
42 to a resident. However, the credit shall be prorated using the proportion provided in ORS
43 316.117.

44 (10) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
45 or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440,

1 the credit allowed by this section shall be prorated or computed in a manner consistent with
2 ORS 314.085.

3 (11) If a change in the status of a taxpayer from resident to nonresident or from non-
4 resident to resident occurs, the credit allowed by this section shall be determined in a man-
5 ner consistent with ORS 316.117.

6 **SECTION 4.** (1) As used in this section:

7 (a) "Child care facility" has the meaning given that term in ORS 329A.250.

8 (b) "Staff member" means a person employed by a child care facility who may perform
9 some child care duties without being supervised by another employee.

10 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
11 payer is a corporation, under ORS chapter 317 or 318, is allowed in the amount of \$500 for
12 each child care facility owned by the taxpayer if on the last day of the tax year:

13 (a) The child care facility is certified or has been issued a temporary certification under
14 ORS 329A.280 by the Office of Child Care; and

15 (b) All of the staff members have received 18 or more clock hours of training related to
16 child care during the tax year, or any child care staff member employed for less than one
17 year has received at least 1.5 clock hours of training related to child care for each month
18 of employment.

19 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer
20 for the tax year.

21 (4) The credit must be claimed on a form prescribed by the Department of Revenue that
22 contains the information required by the department.

23 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer
24 in a particular tax year may be carried forward and offset against the taxpayer's tax liability
25 for the next succeeding tax year. Any credit remaining unused in the next succeeding tax
26 year may be carried forward and used in the second succeeding tax year, and likewise any
27 credit not used in that second succeeding tax year may be carried forward and used in the
28 third succeeding tax year but may not be carried forward for any tax year thereafter.

29 (6) A nonresident shall be allowed the credit under this section. The credit shall be
30 computed in the same manner and be subject to the same limitations as the credit granted
31 to a resident. However, the credit shall be prorated using the proportion provided in ORS
32 316.117.

33 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
34 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
35 the credit allowed by this section shall be prorated or computed in a manner consistent with
36 ORS 314.085.

37 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
38 ident to resident occurs, the credit allowed by this section shall be determined in a manner
39 consistent with ORS 316.117.

40 **SECTION 5.** (1) As used in this section, "child care facility" has the meaning given that
41 term in ORS 329A.250.

42 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
43 payer is a corporation, under ORS chapter 317 or 318, is allowed for each child care facility
44 owned by a taxpayer that is certified by the Office of Child Care under ORS 329A.280, or has
45 been issued a temporary certification under ORS 329A.300, and that maintains a three star

1 or higher rating with the quality rating and improvement system implemented under ORS
 2 329A.261 on the last day of the tax year in which the credit is claimed. The credit allowed
 3 shall be in the amount of \$50 multiplied by the average number of children cared for at the
 4 child care facility during the last month of the tax year.

5 (3) The credit allowed under this section may not exceed the tax liability of the taxpayer
 6 for the tax year.

7 (4) The credit must be claimed on a form prescribed by the Department of Revenue that
 8 contains the information required by the department.

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

15 (6) A nonresident shall be allowed the credit under this section. The credit shall be
 16 computed in the same manner and be subject to the same limitations as the credit granted
 17 to a resident. However, the credit shall be prorated using the proportion provided in ORS
 18 316.117.

19 (7) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085,
 20 or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440,
 21 the credit allowed by this section shall be prorated or computed in a manner consistent with
 22 ORS 314.085.

23 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
 24 ident to resident occurs, the credit allowed by this section shall be determined in a manner
 25 consistent with ORS 316.117.

26 **SECTION 6.** ORS 314.752, as amended by section 7, chapter 108, Oregon Laws 2018, is amended
 27 to read:

28 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
 29 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
 30 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
 31 allowable to the shareholders of the S corporation.

32 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
 33 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
 34 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
 35 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
 36 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
 37 manner prescribed under section 1377(a) of the Internal Revenue Code.

38 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
 39 of this section shall be determined as if such item were realized directly from the source from which
 40 realized by the corporation, or incurred in the same manner as incurred by the corporation.

41 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
 42 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
 43 316.117, then that provision shall apply to the nonresident shareholder.

44 (5) As used in this section, "business tax credit" means the following credits: ORS 315.104
 45 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141

1 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
 2 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
 3 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
 4 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
 5 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
 6 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
 7 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
 8 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
 9 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
 10 315.521 (university venture development funds), ORS 315.523 (employee training programs), ORS
 11 315.533 (low income community jobs initiative), ORS 315.675 (Trust for Cultural Development Ac-
 12 count contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise
 13 zone facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-
 14 search expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter
 15 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2, chapter 108, Oregon
 16 Laws 2018 (Opportunity Grant Fund contributions), **and section 3 of this 2019 Act (leases to
 17 certified child care facilities), section 4 of this 2019 Act (child care facility staff member
 18 training) and section 5 of this 2019 Act (quality rated child care facilities).**

19 **SECTION 7.** ORS 318.031, as amended by section 8, chapter 108, Oregon Laws 2018, is amended
 20 to read:

21 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
 22 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
 23 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
 24 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,
 25 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523 and 315.533 and section
 26 2, chapter 108, Oregon Laws 2018, **and sections 3, 4 and 5 of this 2019 Act** (all only to the extent
 27 applicable to a corporation) and ORS chapter 317.

28 **SECTION 8.** **Sections 3, 4 and 5 of this 2019 Act and the amendments to ORS 314.752 and**
 29 **318.031 by sections 6 and 7 of this 2019 Act apply to tax years beginning on or after January**
 30 **1, 2020, and before January 1, 2026.**

31 **SECTION 9.** **This 2019 Act takes effect on the 91st day after the date on which the 2019**
 32 **regular session of the Eightieth Legislative Assembly adjourns sine die.**