

# Senate Bill 929

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

## 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**.

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; and prescribing an  
3 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 and may be cited**  
6 **as the Preservation, Housing and Seismic Safety Act.**

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

12 **SECTION 3. Sections 4 and 5 of this 2019 Act are added to and made a part of ORS**  
13 **chapter 315.**

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

18 **(2)(a) The Department of Revenue shall, in cooperation with the State Historic Preser-**  
19 **vation Officer, conduct an auction of tax credits under this section. The department may**  
20 **conduct the auction in the manner that the department determines is best suited to maxi-**  
21 **mize the return to the state on the sale of tax credit certifications and shall announce a**  
22 **reserve bid prior to conducting the auction. The reserve amount shall be at least 95 percent**  
23 **of the total amount of the tax credit. Moneys necessary to reimburse the department for the**  
24 **actual costs incurred by the department in administering an auction, not to exceed 0.25**  
25 **percent of auction proceeds, are continuously appropriated to the department. The depart-**  
26 **ment shall deposit net receipts from the auction required under this section in the State**  
27 **Historic Property Project Fund.**

**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) The State Historic Preservation Officer shall adopt rules to achieve the following**  
2 **goals:**

3       **(A) Subject to paragraph (a) of this subsection, to generate contributions for which tax**  
4 **credits of \$\_\_\_\_\_ million are certified for each fiscal year;**

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

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

10       **(3) Contributions made under this section shall be deposited in the State Historic Prop-**  
11 **erty Project Fund.**

12       **(4)(a) Upon receipt of a contribution, the State Historic Preservation Officer shall issue**  
13 **to the taxpayer written certification of the amount certified for tax credit under this section**  
14 **to the extent the amount certified for tax credit, when added to all amounts previously cer-**  
15 **tified for tax credit under this section, does not exceed \$\_\_\_\_\_ million for the fiscal year**  
16 **in which certification is made.**

17       **(b) The State Historic Preservation Officer and the department are not liable, and a re-**  
18 **fund of a contributed amount need not be made, if a taxpayer who has received tax credit**  
19 **certification is unable to use all or a portion of the tax credit to offset the tax liability of the**  
20 **taxpayer.**

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

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

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

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

38       **(7) If a tax credit is claimed under this section by a nonresident or part-year resident**  
39 **taxpayer, the amount shall be allowed without proration under ORS 316.117.**

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

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

45       **SECTION 6. Sections 7 to 10 of this 2019 Act are added to and made a part of ORS**

1 **chapter 358.**

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

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

4 **(A) Capital expenses incurred in the material rehabilitation of historic property;**

5 **(B) Expenses directly related to structural seismic retrofitting, including the necessary**  
 6 **expenses of demolition and restoration of similar architectural finishes, electrical systems,**  
 7 **plumbing and mechanical systems necessary for access; and**

8 **(C) Architectural and engineering fees, and fees for testing, insurance and project man-**  
 9 **agement, related to the seismic retrofitting.**

10 **(b) “Eligible expenses” does not include:**

11 **(A) Expenses associated with refurbishing or remodeling that are primarily intended to**  
 12 **enhance the aesthetics, functionality or marketability of the improvements but do not extend**  
 13 **the seismic life safety of the improvements; or**

14 **(B) Expenses for abatement of hazardous materials, including but not limited to asbestos,**  
 15 **or for relocation or loss of rent during the seismic retrofitting.**

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

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

19 **(4) “Material rehabilitation” means improvements or reconstruction consistent with the**  
 20 **United States Secretary of the Interior’s Standards for Rehabilitation as in effect on the ef-**  
 21 **fective date of this 2019 Act.**

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

23 **(6) “Placed in service” means, with respect to historic property, placed in a condition or**  
 24 **state of readiness and availability for a specifically assigned function in a trade or business,**  
 25 **in the production of income, including from multifamily residential rentals, or in a tax-**  
 26 **exempt activity.**

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

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

29 **(b) “Property owner” includes a lessee of a historic property that has received authori-**  
 30 **zation for material rehabilitation or seismic retrofitting of the historic property from the**  
 31 **owner.**

32 **(9) “Rural area” means an area located entirely outside the acknowledged Portland Met-**  
 33 **ropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth**  
 34 **boundaries of all cities with populations of 30,000 or more.**

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

36 **(11) “Workforce housing” means housing that is sold or rented at a price that is afford-**  
 37 **able to a household with an annual income between 80 and 120 percent of the area median**  
 38 **income in the county in which the housing is located.**

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

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

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

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

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

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

1 (d) The historic property may not be used exclusively for residential purposes if it in-  
 2 cludes fewer than three residential units;

3 (e) The historic property must be an income-generating property; and

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

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

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

11 (b) The project adheres to the historic rehabilitation standards for the exterior facade  
 12 of the historic property and for significant public interior spaces, allowing for changes of use  
 13 and interior conversions to multifamily residential use.

14 (3)(a) Eligible expenses supporting a claim for a rebate under this section must be veri-  
 15 fied by the State Historic Preservation Officer. The property owner must submit to the State  
 16 Historic Preservation Officer proof of expenses, including any documentation requested by  
 17 the State Historic Preservation Officer to verify the expenses.

18 (b) The State Historic Preservation Officer may adopt rules that establish a procedure  
 19 for the submission and verification of actual expenses and may establish a fee for the ad-  
 20 ministration of the rebate program under this section.

21 (4)(a) After material rehabilitation or seismic retrofitting is complete and a historic  
 22 property is placed in service, the State Historic Preservation Officer may issue a rebate to  
 23 the property owner for a portion of the eligible expenses incurred by the property owner, in  
 24 an amount determined under subsection (6) of this section, subject to paragraph (b) of this  
 25 subsection.

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

27 (i) Creating or preserving workforce housing; and

28 (ii) Seismic retrofitting of unreinforced masonry buildings.

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

32 (5)(a) Before a rebate may be issued for eligible expenses incurred with respect to a  
 33 workforce housing project, the property owner shall execute a covenant creating a property  
 34 right in the State Historic Preservation Officer to require the historic property to be used  
 35 as workforce housing.

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

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

40 (d) Notwithstanding paragraph (c) of this subsection, after 20 years following a date on  
 41 which a covenant issued under this subsection was originally executed, the covenant may be  
 42 modified or terminated by a written instrument executed by the State Historic Property Of-  
 43 ficer and the property owner of the workforce housing at the time of the modification or  
 44 termination.

45 (e) The State Historic Preservation Officer may bring suit to enforce a covenant executed

1 under this subsection in the circuit court for the county in which the historic property is  
 2 located.

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

4 (a) Shall be 25 percent of eligible expenses for material rehabilitation or 35 percent of  
 5 eligible expenses for seismic retrofitting; and

6 (b) May not exceed the lesser of 10 percent of the maximum rebate amount issuable for  
 7 all historic properties for the biennium in which the rebate is issued, as set forth in section  
 8 10 of this 2019 Act, or \$2 million.

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

12 **SECTION 9.** (1) The State Historic Property Project Fund is established in the State  
 13 Treasury, separate and distinct from the General Fund.

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

15 (a) Amounts donated to the fund;

16 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-  
 17 sembly;

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

19 (d) Interest earned by the fund.

20 (3) Moneys in the fund are continuously appropriated to the State Historic Preservation  
 21 Officer. After the payment of refunds to taxpayers as described in section 4 of this 2019 Act  
 22 and payments to a tax credit marketer for marketing services provided by the marketer as  
 23 described in section 5 of this 2019 Act:

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

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

30 (4) On July 1 of each fiscal year, any moneys that remain unexpended or unallocated  
 31 from the previous fiscal year may be used by the State Historic Preservation Officer for the  
 32 purpose of making rebates to property owners under section 8 of this 2019 Act.

33 (5) Expenditures from the fund are not subject to ORS 291.232 to 291.260.

34 **SECTION 10.** (1) The total amount of potential tax credits for certified historic property  
 35 project contributions in this state may not, at the time of certification under section 4 of this  
 36 2019 Act, exceed \$\_\_\_\_\_ million for any biennium.

37 (2) In the event that the State Historic Preservation Officer receives applications for  
 38 rebates under section 8 of this 2019 Act in excess of the contributions received pursuant to  
 39 section 4 of this 2019 Act, the State Historic Preservation Officer shall allocate the issuance  
 40 of rebates according to standards and criteria established by rule by the State Historic  
 41 Preservation Officer.

42 **SECTION 11.** Sections 4, 5 and 7 to 10 of this 2019 Act apply to applications for rebates  
 43 submitted after July 1, 2019, for tax years beginning on or after January 1, 2020, and before  
 44 January 1, 2026.

45 **SECTION 12.** This 2019 Act takes effect on the 91st day after the date on which the 2019

1 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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