

Requested by Senator GIROD

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4401**

1 On page 1 of the printed bill, delete lines 2 through 4 and insert:

2 “Relating to residential tenancies; creating new provisions; amending  
3 ORS 90.160, 90.385, 90.394, 90.417, 105.113, 105.115, 105.124, 314.772, 316.680 and  
4 318.031 and sections 1, 3, 4 and 7, chapter 13, Oregon Laws 2020 (first special  
5 session) (Enrolled House Bill 4213); and prescribing an effective date.”.

6 On page 2, delete lines 6 through 45.

7 On page 3, delete lines 2 and 3 and insert:

8 **“SECTION 2. (1) The Housing and Community Services Department**  
9 **shall make distributions to compensate residential landlords for 80**  
10 **percent of the past-due rent of qualified tenants that the landlord has**  
11 **not collected after April 1, 2020, if the landlord or the landlord’s**  
12 **designee:**

13 **“(a) Submits an application to the department for all of the**  
14 **landlord’s tenants who have not paid rent and have delivered to the**  
15 **landlord a signed declaration under section 7 (1)(b) of this 2020 third**  
16 **special session Act;**

17 **“(b) Includes in the application a copy of the tenants’ declarations;**

18 **“(c) Provides the department with a description of the unpaid rent**  
19 **for all current tenants;**

20 **“(d) Agrees to forgive the remaining 20 percent of the unpaid rent**  
21 **due from qualified tenants that has accrued between April 1, 2020, and**

1 the date of the application, upon receiving a distribution under this  
2 subsection;

3 “(e) Agrees to repay to the department any amount that was for-  
4 given by the landlord or that was paid to the landlord under this sec-  
5 tion and the landlord later receives from the qualified tenant or on the  
6 tenant’s behalf, except as received as a tax credit under section 26 of  
7 this 2020 third special session Act, within the period requested by the  
8 department;

9 “(f) Is not a member of the tenant’s immediate family, as defined  
10 in ORS 90.427;

11 “(g) During the pendency of the distribution application, agrees to  
12 not give a termination notice without cause or for nonpayment, as  
13 those terms are defined in section 3, chapter 13, Oregon Laws 2020  
14 (first special session) (Enrolled House Bill 4213); and

15 “(h) Provides any other information or materials required by the  
16 department.

17 “(2)(a) The department shall develop an online application for  
18 landlords to apply for distributions under this section.

19 “(b) The application must be made available in languages other  
20 than English.

21 “(c) The application period must be open more than once to allow  
22 for greater outreach and participation.

23 “(3) The department may establish any qualifications, priorities,  
24 restrictions or limits on the distributions made under this section, to  
25 prioritize landlords with fewer units and landlords with a higher per-  
26 centage of unpaid rents. Restrictions or limits may include:

27 “(a) Limits per tenant, per landlord or per time period;

28 “(b) The number of units a landlord must own; or

29 “(c) The percentage or amount of total rent unpaid.

30 “(4) The department may coordinate with local housing authorities

1 to administer this section, including through making distributions to  
2 landlords.

3 “(5) The department or local housing authority shall mail:

4 “(a) Copies of a notice of distribution to each tenant whose landlord  
5 receives a distribution under this section that states the amount of  
6 distribution and the amount of rent forgiveness agreed to by the  
7 landlord; or

8 “(b) A notice to landlords that states that the application has been  
9 rejected either because:

10 “(A) The landlord or tenant are not qualified under this section; or

11 “(B) The department or housing authority lack available funds to  
12 fulfil the request.

13 “(6) The department may conduct outreach to landlords and ten-  
14 ants, including outreach to non-English speakers.

15 “(7) Notwithstanding ORS 276A.300, 279A.025, 279A.050 (6)(g),  
16 279A.205 and 456.571, the department shall expedite the implementation  
17 of the landlord compensation fund.

18 “(8) As used in this section, ‘landlord’ includes a manufactured  
19 dwelling park nonprofit cooperative as defined in ORS 62.803.”.

20 On page 24, delete lines 23 through 33 and insert:

21

22 **“TAX CREDIT FOR FORGIVEN RENTS**

23

24 **“SECTION 25. Section 26 of this 2020 third special session Act is**  
25 **added to and made a part of ORS chapter 315.**

26 **“SECTION 26. (1) As used in this section, ‘nonpayment balance’ has**  
27 **the meaning given that term in section 3, chapter 13, Oregon Laws 2020**  
28 **(first special session) (Enrolled House Bill 4213).**

29 **“(2) A credit against taxes imposed by ORS chapter 316 or, if the**  
30 **taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to**

1 a taxpayer who is a residential landlord, as defined in ORS 90.100,  
2 equal to:

3 “(a) The total amount forgiven by the taxpayer under section 2  
4 (1)(c) of this section; or

5 “(b) An amount of rent forgiven by a taxpayer who:

6 “(A) Applied for a distribution under section 2 of this 2020 third  
7 special session Act on or before July 31, 2021;

8 “(B) Received a notice under section 2 (5)(b)(B) of this 2020 third  
9 special session Act that funding was not available; and

10 “(C) Provided a notice to the tenant after receiving the notice from  
11 the department and on or before September 31, 2021, that the taxpayer  
12 is forgiving an amount not greater than the tenant’s nonpayment  
13 balance on the date of the notice;

14 “(3) A taxpayer may claim the credit allowed under this section if,  
15 for each tenant with a nonpayment balance for whom the taxpayer is  
16 claiming a credit, the taxpayer:

17 “(a) Agreed to forgive unpaid rent under subsection (2) of this sec-  
18 tion;

19 “(b) Did not and did not threaten to, at any time:

20 “(A) Deliver a notice of termination of a rental agreement based  
21 on a tenant’s nonpayment balance;

22 “(B) Initiate or continue an action under ORS 105.110 to take pos-  
23 session of a dwelling unit based on a notice of termination for the  
24 nonpayment balance;

25 “(C) Take any action that would interfere with a tenant’s possession  
26 or use of a dwelling unit based on a tenant’s nonpayment balance;

27 “(D) Assess a late fee or any other penalty based on a tenant’s  
28 nonpayment balance; or

29 “(E) Report a tenant’s nonpayment balance as delinquent to any  
30 consumer credit reporting agency; and

1       “(c) Returned any received overpayment of forgiven rent to the  
2 tenant or the Housing and Community Services Department under  
3 section 2 (1)(e) of this 2020 third special session Act.

4       “(4) The credit allowed under this section must be claimed on a  
5 form prescribed by the Department of Revenue that contains the in-  
6 formation required by the department.

7       “(5) The credit allowed under this section is the total amount for-  
8 given by the taxpayer under subsection (3) of this section, divided in  
9 half for each of two succeeding tax years. The taxpayer may not claim  
10 the credit to the extent that the credit exceeds the tax liability of the  
11 taxpayer.

12       “(6) Any tax credit otherwise allowable under this section that is  
13 not used by the taxpayer in a particular year may be carried forward  
14 and offset against the taxpayer’s tax liability for the next succeeding  
15 tax year. Any credit remaining unused in that next succeeding tax  
16 year may be carried forward and used in the second succeeding tax  
17 year, and likewise, any credit not used in that second succeeding tax  
18 year may be carried forward and used in the third succeeding tax year,  
19 and likewise, any credit not used in that third succeeding tax year  
20 may be carried forward and used in the fourth succeeding tax year,  
21 and likewise, any credit not used in that fourth succeeding tax year  
22 may be carried forward and used in the fifth succeeding tax year but  
23 may not be carried forward for any tax year thereafter.

24       “(7) The taxpayer’s adjusted basis for determining gain or loss may  
25 not be decreased by any tax credit allowed under this section.

26       “(8) In the case of a credit allowed under this section:

27       “(a) A nonresident shall be allowed the credit under this section in  
28 the proportion provided in ORS 316.117.

29       “(b) If a change in the status of a taxpayer from resident to non-  
30 resident or from nonresident to resident occurs, the credit allowed by

1 **this section shall be determined in a manner consistent with ORS**  
2 **316.117.**

3 **“(c) If a change in the taxable year of a taxpayer occurs as de-**  
4 **scribed in ORS 314.085, or if the Department of Revenue terminates a**  
5 **taxpayer’s taxable year under ORS 314.440, the credit allowed under**  
6 **this section shall be prorated or computed in a manner consistent with**  
7 **ORS 314.085.**

8 **“(9) A person that has earned a tax credit under this section may**  
9 **transfer the credit to a taxpayer subject to tax under ORS chapter 316,**  
10 **317 or 318. The transfer must comply with ORS 315.056.**

11 **“SECTION 27. ORS 316.680 is amended to read:**

12 **“316.680. (1) There shall be subtracted from federal taxable income:**

13 **“(a) The interest or dividends on obligations of the United States and its**  
14 **territories and possessions or of any authority, commission or**  
15 **instrumentality of the United States to the extent includable in gross income**  
16 **for federal income tax purposes but exempt from state income taxes under**  
17 **the laws of the United States. However, the amount subtracted under this**  
18 **paragraph shall be reduced by any interest on indebtedness incurred to carry**  
19 **the obligations or securities described in this paragraph, and by any expenses**  
20 **incurred in the production of interest or dividend income described in this**  
21 **paragraph to the extent that such expenses, including amortizable bond pre-**  
22 **miums, are deductible in determining federal taxable income.**

23 **“(b) The amount of any federal income taxes accrued by the taxpayer**  
24 **during the taxable year as described in ORS 316.685, less the amount of any**  
25 **refunds of federal taxes previously accrued for which a tax benefit was re-**  
26 **ceived.**

27 **“(c) Amounts allowable under sections 2621(a)(2) and 2622(b) of the**  
28 **Internal Revenue Code to the extent that the taxpayer does not elect under**  
29 **section 642(g) of the Internal Revenue Code to reduce federal taxable income**  
30 **by those amounts.**

1       “(d) Any supplemental payments made to JOBS Plus Program participants  
2 under ORS 411.892.

3       “(e)(A) Federal pension income that is attributable to federal employment  
4 occurring before October 1, 1991. Federal pension income that is attributable  
5 to federal employment occurring before October 1, 1991, shall be determined  
6 by multiplying the total amount of federal pension income for the tax year  
7 by the ratio of the number of months of federal creditable service occurring  
8 before October 1, 1991, over the total number of months of federal creditable  
9 service.

10       “(B) The subtraction allowed under this paragraph applies only to federal  
11 pension income received at a time when:

12       “(i) Benefit increases provided under chapter 569, Oregon Laws 1995, are  
13 in effect; or

14       “(ii) Public Employees Retirement System benefits received for service  
15 prior to October 1, 1991, are exempt from state income tax.

16       “(C) As used in this paragraph:

17       “(i) ‘Federal creditable service’ means those periods of time for which a  
18 federal employee earned a federal pension.

19       “(ii) ‘Federal pension’ means any form of retirement allowance provided  
20 by the federal government, its agencies or its instrumentalities to retirees  
21 of the federal government or their beneficiaries.

22       “(f) Any amount included in federal taxable income for the tax year that  
23 is attributable to the conversion of a regular individual retirement account  
24 into a Roth individual retirement account described in section 408A of the  
25 Internal Revenue Code, to the extent that:

26       “(A) The amount was subject to the income tax of another state or the  
27 District of Columbia in a prior tax year; and

28       “(B) The taxpayer was a resident of the other state or the District of  
29 Columbia for that prior tax year.

30       “(g) Any amounts awarded to the taxpayer by the Public Safety Memorial

1 Fund Board under ORS 243.954 to 243.974 to the extent that the taxpayer has  
2 not taken the amount as a deduction in determining the taxpayer's federal  
3 taxable income for the tax year.

4 “(h) If included in taxable income for federal tax purposes, the amount  
5 withdrawn during the tax year in qualified withdrawals from a savings net-  
6 work account for higher education established under ORS 178.300 to 178.360.

7 “(i) Any federal deduction that the taxpayer would have been allowed for  
8 the production, processing or sale of marijuana items authorized under ORS  
9 475B.010 to 475B.545 or 475B.785 to 475B.949 but for section 280E of the  
10 Internal Revenue Code.

11 “(j) If included in taxable income for federal tax purposes, any distrib-  
12 tions from an ABLE account that do not exceed the qualified disability  
13 expenses of the designated beneficiary as provided in ORS 178.375 and 178.380  
14 and rules adopted by the Oregon 529 Savings Board.

15 **“(k) If included in taxable income for federal tax purposes, any**  
16 **amount of a tenant's discharge of indebtedness income attributable to**  
17 **the forgiveness of a nonpayment balance under section 26 of this 2020**  
18 **third special session Act.**

19 “(2) There shall be added to federal taxable income:

20 “(a) Interest or dividends, exempt from federal income tax, on obligations  
21 or securities of any foreign state or of a political subdivision or authority  
22 of any foreign state. However, the amount added under this paragraph shall  
23 be reduced by any interest on indebtedness incurred to carry the obligations  
24 or securities described in this paragraph and by any expenses incurred in the  
25 production of interest or dividend income described in this paragraph.

26 “(b) Interest or dividends on obligations of any authority, commission,  
27 instrumentality and territorial possession of the United States that by the  
28 laws of the United States are exempt from federal income tax but not from  
29 state income taxes. However, the amount added under this paragraph shall  
30 be reduced by any interest on indebtedness incurred to carry the obligations



1 or securities described in this paragraph and by any expenses incurred in the  
2 production of interest or dividend income described in this paragraph.

3 “(c) The amount of any federal estate taxes allocable to income in respect  
4 of a decedent not taxable by Oregon.

5 “(d) The amount of any allowance for depletion in excess of the taxpayer’s  
6 adjusted basis in the property depleted, deducted on the taxpayer’s federal  
7 income tax return for the taxable year, pursuant to sections 613, 613A, 614,  
8 616 and 617 of the Internal Revenue Code.

9 “(e) For taxable years beginning on or after January 1, 1985, the dollar  
10 amount deducted under section 151 of the Internal Revenue Code for personal  
11 exemptions for the taxable year.

12 “(f) The amount taken as a deduction on the taxpayer’s federal return for  
13 unused qualified business credits under section 196 of the Internal Revenue  
14 Code.

15 “(g) The amount of any increased benefits paid to a taxpayer under  
16 chapter 569, Oregon Laws 1995, under the provisions of chapter 796, Oregon  
17 Laws 1991, and under section 26, chapter 815, Oregon Laws 1991, that is not  
18 includable in the taxpayer’s federal taxable income under the Internal Rev-  
19 enue Code.

20 “(h) The amount of any long term care insurance premiums paid or in-  
21 curred by the taxpayer during the tax year if:

22 “(A) The amount is taken into account as a deduction on the taxpayer’s  
23 federal return for the tax year; and

24 “(B) The taxpayer claims the credit allowed under ORS 315.610 for the tax  
25 year.

26 “(i) Any amount taken as a deduction under section 1341 of the Internal  
27 Revenue Code in computing federal taxable income for the tax year, if the  
28 taxpayer has claimed a credit for claim of right income repayment adjust-  
29 ment under ORS 315.068.

30 “(j) If the taxpayer makes a nonqualified withdrawal, as defined in ORS

1 178.300, from a savings network account for higher education established  
2 under ORS 178.300 to 178.360, the amount of the withdrawal that is attrib-  
3 utable to contributions that were subtracted from federal taxable income  
4 under ORS 316.699.

5 “(k) If a taxpayer makes a withdrawal from a savings network account  
6 for higher education established under ORS 178.300 to 178.360 to pay ex-  
7 penses in connection with enrollment or attendance at an elementary or  
8 secondary school, the amount of the withdrawal that is attributable to con-  
9 tributions that were subtracted from federal taxable income under ORS  
10 316.699 and the amount of the withdrawal that is attributable to previously  
11 untaxed earnings and gains.

12 “(L) If the taxpayer makes a distribution from an ABLE account that is  
13 not a qualified disability expense of the designated beneficiary as provided  
14 in ORS 178.375 and 178.380 and rules adopted by the Oregon 529 Savings  
15 Board, the amount of the distribution that is attributable to contributions  
16 that were subtracted from federal taxable income under ORS 316.699.

17 “(3) Discount and gain or loss on retirement or disposition of obligations  
18 described under subsection (2)(a) of this section issued on or after January  
19 1, 1985, shall be treated for purposes of this chapter in the same manner as  
20 under sections 1271 to 1283 and other pertinent sections of the Internal  
21 Revenue Code as if the obligations, although issued by a foreign state or a  
22 political subdivision of a foreign state, were not tax exempt under the  
23 Internal Revenue Code.

24 “**SECTION 28.** ORS 314.772 is amended to read:

25 “314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits al-  
26 lowed or allowable to a C corporation for purposes of ORS chapter 317 or  
27 318 shall not be allowed to an S corporation. The business tax credits al-  
28 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
29 allowable to the shareholders of the S corporation.

30 “(2) In determining the tax imposed under ORS chapter 316, as provided

1 under ORS 314.763, on income of the shareholder of an S corporation, there  
2 shall be taken into account the shareholder's pro rata share of business tax  
3 credit (or item thereof) that would be allowed to the corporation (but for  
4 subsection (1) of this section) or recapture or recovery thereof. The credit (or  
5 item thereof), recapture or recovery shall be passed through to shareholders  
6 in pro rata shares as determined in the manner prescribed under section  
7 1377(a) of the Internal Revenue Code.

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

12 “(4) If the shareholder is a nonresident and there is a requirement appli-  
13 cable for the business tax credit that in the case of a nonresident the credit  
14 be allowed in the proportion provided in ORS 316.117, then that provision  
15 shall apply to the nonresident shareholder.

16 “(5) As used in this section, ‘business tax credit’ means the following  
17 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish  
18 screening, by-pass devices, fishways), ORS 315.141 (biomass production for  
19 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
20 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent  
21 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-  
22 tributions for child care), ORS 315.237 (employee and dependent scholar-  
23 ships), ORS 315.271 (individual development accounts), ORS 315.304  
24 (pollution control facility), ORS 315.326 (renewable energy development con-  
25 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-  
26 portation projects), ORS 315.341 (renewable energy resource equipment  
27 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-  
28 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-  
29 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514  
30 (film production development contributions), ORS 315.523 (employee training

1 programs), ORS 315.533 (low income community jobs initiative), ORS 315.593  
2 (short line railroads), ORS 315.640 (university venture development funds),  
3 ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for  
4 Cultural Development Account contributions), ORS 317.097 (loans for af-  
5 fordable housing), ORS 317.124 (long term enterprise zone facilities), ORS  
6 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-  
7 search expenses) and ORS 317.154 (alternative qualified research expenses)  
8 and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle con-  
9 tributions), **and section 26 of this 2020 third special session Act (non-**  
10 **payment balance forgiveness).**

11 **“SECTION 29.** ORS 318.031 is amended to read:

12 “318.031. It being the intention of the Legislative Assembly that this  
13 chapter and ORS chapter 317 shall be administered as uniformly as possible  
14 (allowance being made for the difference in imposition of the taxes), ORS  
15 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
16 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,  
17 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,  
18 315.507, 315.523, 315.533, 315.593 and 315.643 **and section 26 of this 2020**  
19 **third special session Act** (all only to the extent applicable to a corporation)  
20 and ORS chapter 317.

21 **“SECTION 30. (1) A taxpayer must first claim the credit allowed**  
22 **under section 26 of this 2020 third special session Act in a tax year**  
23 **beginning on or after January 1, 2020, and before January 1, 2022.**

24 **“(2) The amendments to ORS 316.680 by section 27 of this 2020 third**  
25 **special session Act apply to the tax year beginning January 1, 2021.**

26

27

#### “UNIT CAPTIONS

28

29 **“SECTION 31. The unit captions used in this 2020 third special ses-**  
30 **sion Act are provided only for the convenience of the reader and do**

1 not become part of the statutory law of this state or express any leg-  
2 islative intent in the enactment of this 2020 third special session Act.

3

4

**“EFFECTIVE DATE**

5

6 **“SECTION 32. This 2020 third special session Act takes effect on the**  
7 **91st day after the date on which the 2020 third special session of the**  
8 **Eightieth Legislative Assembly adjourns sine die.”.**

9

---