

B-Engrossed
House Bill 2096

Ordered by the House May 12
Including House Amendments dated March 12 and May 12

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Housing and Community Services Department)

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.

Increases maximum agriculture workforce housing tax credits issued by Housing and Community Services Department to [~~\$24~~] **\$16.75** million per biennium.

Renames "Farmworker Housing Development Account" to "Agricultural Worker Housing Development Account."

A BILL FOR AN ACT

1
2 Relating to agriculture workforce housing tax credits; creating new provisions; and amending ORS
3 315.167, 458.620, 458.660, 654.086, 658.453 and 658.815.

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

5 **NOTE:** Section 1 was deleted by amendment. Subsequent sections were not renumbered.

6 **SECTION 2.** ORS 315.167 is amended to read:

7 315.167. (1) Prior to the completion of an agriculture workforce housing project for which credit
8 under ORS 315.164 will be claimed, an owner or operator of agriculture workforce housing shall
9 apply to the Housing and Community Services Department for a letter of credit approval.

10 (2) The application shall be on such form as is prescribed by the Housing and Community Ser-
11 vices Department and shall provide:

12 (a) The name, address and taxpayer identification number of the taxpayer;

13 (b) The location of the proposed agriculture workforce housing;

14 (c) A description of the project identifying the type of housing that is the subject of the agri-
15 culture workforce housing project;

16 (d) An estimate of the eligible costs of the agriculture workforce housing project;

17 (e) The number of units in the project dedicated to agriculture workforce housing and the eli-
18 gible costs associated with the units;

19 (f) The amount of credit to be claimed by the owner or operator of agriculture workforce hous-
20 ing, and the amount of credit, if any, to be claimed by a contributor under ORS 315.169; and

21 (g) Any other information as the Housing and Community Services Department may require.

22 (3) The Housing and Community Services Department may review applications using any rea-
23 sonable system of prioritizing review established by department rule.

24 (4) [*Applications filed in compliance with this section shall be approved by the Housing and Com-*
25 *munity Services Department to the extent that the total of estimated eligible costs for all approved ag-*
26 *riculture workforce housing projects for the calendar year is equal to or less than \$7.25 million. No*

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 application shall be approved if the addition of the estimated eligible costs of the project to the esti-
2 mated eligible costs for all approved projects for the calendar year would exceed \$7.25 million] **The**
3 **Housing and Community Services Department may approve an application under this section**
4 **only if the potential credits of the project would not cause the total potential credits claimed**
5 **under ORS 315.164 (1) for all approved applications to exceed \$16.75 million within the**
6 **biennium in which the application is approved.**

7 (5) Upon approval of an application, the Housing and Community Services Department shall
8 prepare a letter of credit approval. The letter shall state the approved amount of estimated eligible
9 costs for the agriculture workforce housing project and, if applicable, the portion of credit to be
10 claimed by an owner or operator of agriculture workforce housing under ORS 315.164 and the por-
11 tion of credit to be claimed by a contributor under ORS 315.169. The letter shall be sent:

12 (a) To the owner or operator of agriculture workforce housing, if any credit is to be claimed
13 under ORS 315.164; and

14 (b) To the contributor, if any credit is to be claimed under ORS 315.169 and if the contributor
15 has been identified at the time of approval.

16 (6) At the conclusion of each calendar year, the Housing and Community Services Department
17 shall send a list of the names, addresses and taxpayer identification numbers of taxpayers to whom
18 a letter of credit approval has been issued under this section during the calendar year, along with
19 approved amounts of estimated eligible costs for each agriculture workforce housing project, to the
20 Department of Revenue.

21 (7) Notwithstanding that a letter of credit approval has been issued to a taxpayer under this
22 section, the Department of Revenue may disallow, in whole or in part, a claim for credit under ORS
23 315.164 upon the Department of Revenue's determination that under the provisions of ORS 315.164
24 the taxpayer is not entitled to the credit or is only entitled to a portion of the amount claimed.

25 **NOTE:** Section 3 was deleted by amendment. Subsequent sections were not renumbered.

26 **SECTION 4.** (1) **The amendments to ORS 458.620, 458.660, 654.086, 658.453 and 658.815 by**
27 **sections 5 to 9 of this 2021 Act are intended to change the name of the "Farmworker Housing**
28 **Development Account" to the "Agricultural Worker Housing Development Account."**

29 **(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel**
30 **may substitute for words designating the "Farmworker Housing Development Account,"**
31 **wherever they occur in statutory law, other words designating the "Agricultural Worker**
32 **Housing Development Account."**

33 **SECTION 5.** ORS 458.660 is amended to read:

34 458.660. (1) Except as provided in subsection (2) of this section, the Housing and Community
35 Services Department shall disburse the moneys credited to the [*Farmworker*] **Agricultural Worker**
36 **Housing Development Account to expand this state's supply of housing for low and very low income**
37 [*farmworkers*] **agricultural workers.**

38 (2) The department may expend funds from the account for administration of the account as
39 provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the
40 department.

41 **SECTION 6.** ORS 458.620 is amended to read:

42 458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury,
43 the Oregon Housing Fund, which consists of six separate revolving accounts:

44 (a) The Housing Development and Guarantee Account;

45 (b) The Emergency Housing Account;

- 1 (c) The Home Ownership Assistance Account;
- 2 (d) The [*Farmworker*] **Agricultural Worker** Housing Development Account;
- 3 (e) The General Housing Account; and
- 4 (f) The Wildfire Damage Housing Relief Account.
- 5 (2) Earnings on investment of moneys in:
- 6 (a) The Housing Development and Guarantee Account accrue to that account.
- 7 (b) The Emergency Housing Account accrue to that account.
- 8 (c) The Home Ownership Assistance Account accrue to that account.
- 9 (d) The [*Farmworker*] **Agricultural Worker** Housing Development Account accrue to that ac-
- 10 count.
- 11 (e) The General Housing Account accrue to that account.
- 12 (f) The Wildfire Damage Housing Relief Account accrue to that account.
- 13 (3)(a) Moneys in the Housing Development and Guarantee Account are continuously appropri-
- 14 ated to the Housing and Community Services Department to carry out the provisions of ORS 458.630.
- 15 (b) Moneys in the Emergency Housing Account are continuously appropriated to the department
- 16 to carry out the provisions of ORS 458.650.
- 17 (c) Moneys in the Home Ownership Assistance Account are continuously appropriated to the
- 18 department to carry out the provisions of ORS 458.655.
- 19 (d) Moneys in the [*Farmworker*] **Agricultural Worker** Housing Development Account are con-
- 20 tinuously appropriated to the department to carry out the provisions of ORS 458.660.
- 21 (e) Moneys in the General Housing Account are continuously appropriated to the department
- 22 to carry out the provisions of ORS 456.515 to 456.725.
- 23 (f) Moneys in the Wildfire Damage Housing Relief Account are continuously appropriated to the
- 24 department to carry out the provisions of ORS 458.667.
- 25 (4) Individuals and corporations, both for profit or nonprofit, may make monetary contributions
- 26 to be credited to:
- 27 (a) The Housing Development and Guarantee Account; or
- 28 (b) The General Housing Account.
- 29 **SECTION 6a.** ORS 458.620, as amended by section 39, chapter 10, Oregon Laws 2020 (second
- 30 special session), is amended to read:
- 31 458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury,
- 32 the Oregon Housing Fund, which consists of five separate revolving accounts:
- 33 (a) The Housing Development and Guarantee Account;
- 34 (b) The Emergency Housing Account;
- 35 (c) The Home Ownership Assistance Account;
- 36 (d) The [*Farmworker*] **Agricultural Worker** Housing Development Account; and
- 37 (e) The General Housing Account.
- 38 (2) Earnings on investment of moneys in:
- 39 (a) The Housing Development and Guarantee Account accrue to that account.
- 40 (b) The Emergency Housing Account accrue to that account.
- 41 (c) The Home Ownership Assistance Account accrue to that account.
- 42 (d) The [*Farmworker*] **Agricultural Worker** Housing Development Account accrue to that ac-
- 43 count.
- 44 (e) The General Housing Account accrue to that account.
- 45 (3)(a) Moneys in the Housing Development and Guarantee Account are continuously appropri-

1 ated to the Housing and Community Services Department to carry out the provisions of ORS 458.630.

2 (b) Moneys in the Emergency Housing Account are continuously appropriated to the department
3 to carry out the provisions of ORS 458.650.

4 (c) Moneys in the Home Ownership Assistance Account are continuously appropriated to the
5 department to carry out the provisions of ORS 458.655.

6 (d) Moneys in the [*Farmworker*] **Agricultural Worker** Housing Development Account are con-
7 tinuously appropriated to the department to carry out the provisions of ORS 458.660.

8 (e) Moneys in the General Housing Account are continuously appropriated to the department
9 to carry out the provisions of ORS 456.515 to 456.725.

10 (4) Individuals and corporations, both for profit or nonprofit, may make monetary contributions
11 to be credited to:

12 (a) The Housing Development and Guarantee Account; or

13 (b) The General Housing Account.

14 **SECTION 7.** ORS 654.086 is amended to read:

15 654.086. (1) The Director of the Department of Consumer and Business Services or the author-
16 ized representative of the director has the authority to assess civil penalties as provided by this
17 section for violation of the requirements of a state occupational safety or health statute or the
18 lawful rules, standards or orders adopted under the statute. In setting maximum penalties, the di-
19 rector or the director's representative shall consider, but may not exceed, the maximum penalties
20 under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

21 (a) Any employer who receives a citation for a serious violation of such requirements shall be
22 assessed a civil penalty of not less than \$50.

23 (b) Any employer who receives a citation for a violation of such requirements, and such vio-
24 lation is specifically determined not to be of a serious nature, may be assessed a civil penalty.

25 (c) Any employer who willfully or repeatedly violates such requirements may be assessed a civil
26 penalty of not less than the minimum penalty under the federal Occupational Safety and Health Act
27 of 1970 (29 U.S.C. 651 et seq.).

28 (d) Any employer who receives a citation, as provided in ORS 654.071 (4), for failure to correct
29 a violation may be assessed a civil penalty for each day during which the violation continues.

30 (e) Any employer who knowingly makes any false statement, representation or certification re-
31 garding the correction of a violation shall be assessed a civil penalty of not less than \$100.

32 (f) Any employer who violates any of the posting requirements, as prescribed under the pro-
33 visions of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, may be assessed a civil
34 penalty for each violation.

35 (g) Any person who violates the provisions of ORS 654.082 (2) or (3) shall be assessed a civil
36 penalty of not less than \$100 for each violation.

37 (h) Notwithstanding paragraph (b) of this subsection, an employer who substantially fails to
38 comply with ORS 654.174 (1) shall be assessed a civil penalty of not less than \$250 for each violation.

39 (i) Any insurer or self-insured employer who violates any provision of ORS 654.097, or any rule
40 or order carrying out ORS 654.097, shall be assessed a civil penalty. Each violation, or each day a
41 violation continues, shall be considered a separate offense.

42 (2) For the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 a se-
43 rious violation exists in a place of employment if there is a substantial probability that death or
44 serious physical harm could result from a condition which exists, or from one or more practices,
45 means, methods, operations or processes which have been adopted or are in use, in such place of

1 employment unless the employer did not, and could not with the exercise of reasonable diligence,
2 know of the presence of the violation.

3 (3) When an order assessing a civil penalty becomes final by operation of law or on appeal,
4 unless the amount of penalty is paid within 20 days after the order becomes final, it constitutes a
5 judgment and may be recorded with the county clerk in any county of this state. The clerk shall
6 thereupon record the name of the person incurring the penalty and the amount of the penalty in the
7 County Clerk Lien Record. The penalty provided in the order so recorded shall become a lien upon
8 the title to any interest in property owned by the person against whom the order is entered, and
9 execution may be issued upon the order in the same manner as execution upon a judgment of a court
10 of record.

11 (4) Except as provided in subsection (5) of this section, civil penalties collected under ORS
12 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall be paid into the Consumer and
13 Business Services Fund.

14 (5) Civil penalties assessed under this section for a violation of ORS 658.750 shall be credited
15 to the [*Farmworker*] **Agricultural Worker** Housing Development Account of the Oregon Housing
16 Fund.

17 **SECTION 8.** ORS 658.453 is amended to read:

18 658.453. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
19 of Labor and Industries may assess a civil penalty not to exceed \$2,000 for each violation by:

20 (a) A labor contractor who, without the license required by ORS 658.405 to 658.511, recruits,
21 solicits, supplies or employs a worker.

22 (b) A labor contractor who fails to comply with ORS 658.415 (16).

23 (c) A labor contractor who fails to comply with ORS 658.440 (1), (2)(c) or (3).

24 (d) Any person who violates ORS 658.452.

25 (e) A labor contractor who fails to comply with ORS 658.417 (1).

26 (f) Any person who uses an unlicensed labor contractor without complying with ORS 658.437.

27 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

28 (3) All penalties recovered under this section shall be paid into the State Treasury and credited
29 to the [*Farmworker*] **Agricultural Worker** Housing Development Account of the Oregon Housing
30 Fund.

31 (4) After filing a complaint with the commissioner, in addition to any other penalty provided by
32 law, a worker has a right of action against a labor contractor who violates ORS 658.417 (1) or (2),
33 658.440 or 658.452 without exhausting any alternative administrative remedies. The action may not
34 be commenced later than two years after the date of the violation giving rise to the right of action.
35 The amount of damages recoverable for each violation under this subsection is actual damages or
36 \$1,000, whichever amount is greater. In any such action the court may award to the prevailing
37 party, in addition to costs and disbursements, reasonable attorney fees at trial and appeal.

38 **SECTION 9.** ORS 658.815 is amended to read:

39 658.815. (1) All farmworker camp indorsement fees received by the Commissioner of the Bureau
40 of Labor and Industries under ORS 658.810 shall be credited to the Bureau of Labor and Industries
41 Account. Notwithstanding ORS 651.160 (1) and 658.413 (4), moneys credited to the account under this
42 subsection are continuously appropriated for the enforcement of ORS 658.705 to 658.850.

43 (2) Moneys collected from civil penalties imposed by the commissioner pursuant to ORS 658.850
44 for violations of ORS 658.750 shall be credited to the [*Farmworker*] **Agricultural Worker** Housing
45 Development Account of the Oregon Housing Fund.

1 (3) Except as provided in subsection (2) of this section, all moneys other than fees described in
2 ORS 658.413 received by the commissioner under ORS 658.705 to 658.850 shall be credited to the
3 General Fund.

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