

Enrolled House Bill 2456

Sponsored by Representative NATHANSON; Representatives LEIF, LEVY (Presession filed.)

CHAPTER

AN ACT

Relating to taxation; creating new provisions; amending ORS 178.375, 181A.195, 307.515, 307.519, 307.540, 307.651, 307.677, 307.681, 307.827, 315.514, 315.593, 315.595, 315.643, 317.710 and 320.470 and sections 6, 7, 9 and 10, chapter 826, Oregon Laws 2005; repealing ORS 315.601 and 315.606; and prescribing an effective date.

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

SECTION 1. ORS 178.375 is amended to read:

178.375. As used in this section and ORS 178.380 and 178.385:

- (1) "ABLE account" means an account established by an eligible individual, owned by the eligible individual and maintained under the qualified ABLE program established by the Oregon 529 Savings Board under ORS 178.380.
- (2) "ABLE Act" means the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (Division B of P.L. 113-295).
- (3) "Designated beneficiary" has the same meaning as contained in section 529A of the Internal Revenue Code.
- (4) "Eligible individual" has the same meaning as contained in section 529A of the Internal Revenue Code.
- (5) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on [December 31, 2017] **April 1, 2021**.
- (6) "Qualified disability expense" has the same meaning as contained in section 529A of the Internal Revenue Code.

SECTION 2. ORS 307.515 is amended to read:

307.515. As used in ORS 307.515 to 307.523:

- (1) "Governing body" means the city or county legislative body having jurisdiction over the property for which an exemption may be applied for under ORS 307.515 to 307.523.
- (2) "Lender" means the provider of a loan secured by the recorded deed of trust or recorded mortgage made to finance the purchase, construction or rehabilitation of a property used for low income housing under the criteria listed in or adopted under ORS 307.517 or 307.518.
- (3) **According to the election of a governing body pursuant to ORS 307.519 (1)**, "low income" means:
 - (a) Income at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development[.];
 - (b)(A) **For the initial year that persons occupy property for which an application for exemption is filed under ORS 307.521, income at or below 60 percent of the area median income**

as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; and

(B) For every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

(c) For housing units on property that is awarded tax credits through the federal Low-Income Housing Tax Credit program and is a qualified low-income housing project meeting the requirements of 26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development, provided the average area median income of all housing units on the property is at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

SECTION 3. ORS 307.519 is amended to read:

307.519. (1) Except as provided in subsection (2) of this section, the exemptions granted under ORS 307.515 to 307.523 apply only to the tax levy of a governing body that adopts the provisions of ORS 307.515 to 307.523. **At the time of adoption, the governing body shall elect a definition of “low income” under ORS 307.515.**

(2) The exemptions granted under ORS 307.515 to 307.523 apply to the tax levy of all taxing districts in which property certified for exemption is located if, upon request of a governing body that has adopted the provisions of ORS 307.515 to 307.523, the rates of taxation of such taxing districts whose governing boards agree to the policy of exemption under ORS 307.515 to 307.523, when combined with the rate of taxation of the governing body that adopts the provisions of ORS 307.515 to 307.523, equal 51 percent or more of the total combined rate of taxation on the property granted exemption.

(3) A governing body may adopt additional provisions relating to the exemption granted under ORS 307.515 to 307.523 that do not conflict with the provisions of ORS 307.515 to 307.523.

SECTION 4. The amendments to ORS 307.515 by section 2 of this 2021 Act apply to housing for which an application is filed under ORS 307.515 to 307.523 on or after the effective date of this 2021 Act.

SECTION 5. ORS 307.540 is amended to read:

307.540. As used in ORS 307.540 to 307.548:

(1) “Governing body” means the city or county legislative body having jurisdiction over the property for which an exemption may be applied for under ORS 307.540 to 307.548.

(2) According to the election of a governing body pursuant to ORS 307.543 (1), “low income” means:

(a) Income at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; [or]

(b)(A) For the initial year that persons occupy property for which an application for exemption is filed under ORS 307.545, income at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; and

(B) For every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development[.]; **or**

(c) **For housing units on property that is awarded tax credits through the federal Low-Income Housing Tax Credit program and is a qualified low-income housing project meeting the requirements of 26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development, provided the average area**

median income of all housing units on the property is at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

SECTION 6. The amendments to ORS 307.540 by section 5 of this 2021 Act apply to housing for which an application is filed under ORS 307.545 on or after the effective date of this 2021 Act.

SECTION 7. ORS 307.827 is amended to read:

307.827. (1) Environmentally sensitive logging equipment is exempt from ad valorem property taxation.

(2) As used in this section:

(a) "Environmentally sensitive logging equipment" means logging equipment that was originally manufactured after 1992.

(b) "Logging equipment" means machinery and equipment:

(A) Used **or held for use** in logging or forest management operations involving timber harvest, including the felling, bucking, yarding, loading or utilization of timber, logs or wood fiber in the forest, or used **or held for use** in reforestation, forest vegetation restoration, site preparation, vegetation control, stand and tree improvement or thinning;

(B) That is specifically designed for activities related to water quality or fish and wildlife habitat protection in the forest; or

(C) Consisting of excavators used **or held for use** in logging road construction, maintenance, reconstruction or improvements, including the closing or obliterating of existing forest roads.

(c) "Logging equipment" does not include:

(A) Equipment used in nonforest applications for more than 20 percent of the tax year, as measured by the operating hours of the equipment.

(B) Equipment used **or held for use** in the manufacturing or milling of forest products.

(C) Power saws, hand tools, blocks or pulleys that are not a part of the equipment, rigging, shop equipment or support equipment.

(D) Logging equipment that is exempt from tax under ORS 307.831.

SECTION 8. The amendments to ORS 307.827 by section 7 of this 2021 Act apply to property tax years beginning on or after July 1, 2019.

SECTION 9. ORS 307.651 is amended to read:

307.651. As used in ORS 307.651 to 307.687, unless the context requires otherwise:

(1) "Governing body" means the city legislative body having jurisdiction over the property for which an exemption may be applied for under ORS 307.651 to 307.687.

(2) "Qualified dwelling unit" means a dwelling unit that, at the time an application is filed pursuant to ORS 307.667, has a market value for the land and improvements of no more than 120 percent, or a lesser percentage as adopted by the governing body by resolution, of the median sales price of dwelling units located within the city.

(3) "Single-unit housing" means a structure having one or more dwelling units that:

(a) Is, or will be, upon purchase, rehabilitation or completion of construction, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197 and 227.

(b) If newly constructed, is completed within two years after application for exemption is approved under ORS 307.674 [*or before January 1, 2025, whichever is earlier*].

(c) Is designed for each dwelling unit within the structure to be purchased by and lived in by one person or one family.

(d) Has one or more qualified dwelling units within the single-unit housing.

(e) Is not a floating home, as defined in ORS 830.700, or a manufactured structure, other than a manufactured home described in ORS 197.307 (8)(a) to (f).

(4) "Structure" does not include the land or any site development made to the land, as those terms are defined in ORS 307.010.

SECTION 10. ORS 307.677 is amended to read:

307.677. Notwithstanding ORS 307.651 to 307.687:

(1) If the city finds that construction of single-unit housing was not completed [*by a date that is 12 months after the date on which applications may no longer be approved under ORS 307.674, and*] **in accordance with ORS 307.651 (3)(b), the city may extend the deadline for completion of construction for a period not to exceed an additional 24 consecutive months if the city further finds that:**

(a) The failure to complete construction was due to circumstances beyond the control of the owner[, *and that*]; **and**

(b) The owner had been acting and could reasonably be expected to act in good faith and with due diligence[, *the city may extend the deadline for completion of construction for a period not to exceed an additional 12 consecutive months*].

(2) If property granted exemption under ORS 307.651 to 307.687 is destroyed by fire or act of God, or is otherwise no longer capable of occupancy due to circumstances beyond the control of the owner, the exemption shall cease but no additional taxes or penalty shall be imposed under ORS 307.651 to 307.687 upon the property.

SECTION 11. ORS 307.681 is amended to read:

307.681. (1) Except as provided in ORS 307.684, if, after an application has been approved under ORS 307.674, the city finds [*that construction of single-unit housing was not completed within two years after the date the application was approved or on or before January 1, 2025, whichever is earlier, or*] that any provision of ORS 307.651 to 307.687 is not being complied with, or any provision required by the city pursuant to ORS 307.651 to 307.687 is not being complied with, the city shall give notice to the owner, mailed to the owner's last-known address, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination and shall require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

(2) If the owner fails to show cause why the exemption should not be terminated, the city shall adopt an ordinance or resolution stating its findings and terminating the exemption. A copy of the ordinance or resolution shall be filed with the county assessor and a copy sent to the owner at the owner's last-known address within 10 days after its adoption.

SECTION 12. **The amendments to ORS 307.651, 307.677 and 307.681 by sections 9 to 11 of this 2021 Act apply to property for which an application has been approved under ORS 307.674 before, on or after the effective date of this 2021 Act.**

SECTION 13. ORS 315.514 is amended to read:

315.514. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified film production development contributions made by the taxpayer [*during the tax year*] to the Oregon Production Investment Fund established under ORS 284.367.

(2)(a) The Department of Revenue shall, in cooperation with the Oregon Film and Video Office, conduct an auction of tax credits under this section. The auction may be conducted no later than April 15 following December 31 of any tax year for which the credit is allowed. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 90 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the department in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. The department shall deposit net receipts from the auction required under this section in the Oregon Production Investment Fund.

(b) The Oregon Film and Video Office shall adopt rules in order to achieve the following goals:

(A) Subject to paragraph (a) of this subsection, generate contributions for which tax credits of \$14 million are certified for each fiscal year;

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

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

(3) Contributions made under this section shall be deposited in the Oregon Production Investment Fund.

(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office shall, except as provided in ORS 315.516, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed \$14 million for the fiscal year in which certification is made.

(b) The Oregon Film and Video Office may issue a certification for a credit under this section, and a credit may be allowed, for the tax year in which a contribution is made, or for the tax year immediately preceding the tax year in which a contribution is made and for auctions conducted no later than April 15 following December 31 of any tax year for which the credit is allowed, if no return has yet been filed for the preceding tax year.

[(b)] (c) The Oregon Film and Video Office and the department are not liable, and a refund of a contributed amount need not be made, if a taxpayer who has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) To the extent the Oregon Film and Video Office does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the office shall refund that amount.

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

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

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2024.

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

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

SECTION 14. ORS 315.643 is amended to read:

315.643. (1) A credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, is allowed to a taxpayer for certified Opportunity Grant contributions made by the taxpayer *[during the tax year]* to the Opportunity Grant Fund established under ORS 348.266. **A credit is allowed for the tax year in which a contribution is made, or for the tax year immediately preceding the tax year in which a contribution is made and for auctions conducted no later than April 15 following December 31 of any tax year for which the credit is allowed, if no return has yet been filed for the preceding tax year.**

(2)(a) The Department of Revenue shall, in cooperation with the Higher Education Coordinating Commission, conduct an auction of tax credits under this section. The auction may be conducted no later than April 15 following December 31 of any tax year for which the credit is allowed. The department may conduct the auction in the manner that it determines is best suited to maximize the return to the state on the sale of tax credit certifications and shall announce a reserve bid prior to conducting the auction. The reserve amount shall be at least 90 percent of the total amount of the tax credit. Moneys necessary to reimburse the department for the actual costs incurred by the de-

partment in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the department. Moneys necessary to reimburse the commission for the actual costs incurred by the commission in administering an auction, not to exceed 0.25 percent of auction proceeds, are continuously appropriated to the commission. The department shall deposit net receipts from the auction required under this section in the Opportunity Grant Fund.

(b) The commission may adopt rules necessary for the administration of the auction.

(3) Contributions made under this section shall be deposited in the Opportunity Grant Fund.

(4)(a) Upon receipt of a contribution, the commission shall, except as provided in ORS 315.646, issue to the taxpayer written certification of the amount certified for tax credit under this section to the extent the amount certified for tax credit, when added to all amounts previously certified for tax credit under this section, does not exceed \$14 million for the fiscal year in which certification is made.

(b) The commission and the department are not liable, and a refund of a contributed amount need not be made, if a taxpayer that has received tax credit certification is unable to use all or a portion of the tax credit to offset the tax liability of the taxpayer.

(5) To the extent the commission does not certify contributed amounts as eligible for a tax credit under this section, the taxpayer may request a refund of the amount the taxpayer contributed, and the commission shall refund that amount.

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

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

(c) A taxpayer is not eligible for a tax credit under this section if the first tax year for which the credit would otherwise be allowed begins on or after January 1, 2024.

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

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

SECTION 15. The amendments to ORS 315.514 and 315.643 by sections 13 and 14 of this 2021 Act apply to tax years beginning on or after January 1, 2021, and before January 1, 2024.

SECTION 16. ORS 317.710 is amended to read:

317.710. (1) A corporation shall make a return with respect to the tax imposed by this chapter as provided in this section.

(2) If the corporation is a member of an affiliated group of corporations making a consolidated federal return, it shall file a return and determine its Oregon taxable income as provided in ORS 317.715. The corporation's tax liability shall be joint and several with any other corporation that is included in a consolidated state return with the corporation under subsection (5) of this section.

(3) If the corporation makes a separate return for federal income tax purposes, it shall file a separate return under this chapter. The corporation shall determine its Oregon taxable income and tax liability separately from any other corporation.

(4) For purposes of subsection (3) of this section, if the corporation is not subject to taxation under the Internal Revenue Code a return for federal income tax purposes includes any form of return required to be made in lieu of an income tax return under the Internal Revenue Code or regulations thereunder.

(5)(a) Except as otherwise provided in this section, if two or more corporations subject to taxation under this chapter are members of the same affiliated group making a consolidated federal return and are members of the same unitary group, they shall file a consolidated state return.

(b) If any corporation that is a member of an affiliated group is permitted or required to determine its Oregon taxable income on a separate basis under ORS 314.667, or if any corporation is permitted or required by statute or rule to use different apportionment factors than a corporation with which it is affiliated, the corporation may not be included in a consolidated state return under paragraph (a) of this subsection.

(c) Whenever two or more corporations are required to file a consolidated state return under paragraph (a) of this subsection, any reference in this chapter to a corporation for purposes of deriving Oregon taxable income shall be treated as a reference to all corporations that are included in the consolidated state return.

(d) A corporation that would not be a member of an affiliated group filing a consolidated state return based solely on the application of section [1504(b)(6)] **1504(b)(4)** of the Internal Revenue Code must be included in the consolidated state return filed by the affiliated group.

(6) If so directed by the department, by rule or instructions on the state tax return form, every corporation required to make a return under this chapter shall also file with the return a true copy of the corporation's federal income tax return for the same taxable year. For purposes of this subsection, the corporation's federal income tax return includes a consolidated federal return for an affiliated group of which the corporation is a member. The department may, by rule or instructions, permit a corporation to submit specified excerpts from its federal return in lieu of submitting a copy of the entire federal return. The federal return or any part thereof required to be filed with the state return is incorporated in and shall be a part of the state return.

(7)(a) Each foreign or alien insurer and each domestic insurer owned and controlled, directly or indirectly, by one or more foreign insurers:

(A) Shall determine its Oregon taxable income under ORS 317.650 to 317.665;

(B) Shall make a return of the tax imposed by this chapter on a separate basis; and

(C) May not be included in a consolidated state return.

(b) An interinsurance and reciprocal exchange and its attorney in fact with respect to its attorney in fact net income as a corporate attorney in fact acting as attorney in compliance with ORS 731.458, 731.462, 731.466 and 731.470 for the reciprocal or interinsurance exchange may file a consolidated return under the circumstances in the manner and subject to the rules adopted by the department.

(8) The Department of Revenue may prescribe by rule the method by which a consolidated state return shall be filed under this section.

SECTION 17. ORS 320.470 is amended to read:

320.470. (1) Notwithstanding the confidentiality provisions of ORS 320.475, the Department of Revenue may disclose information received under ORS 320.400 to 320.490 and 803.203 to the Department of Transportation for the purposes of carrying out the provisions of ORS **320.405**, 320.410 and 803.203.

(2) The Department of Transportation may disclose information obtained under ORS 320.410 and 803.203 to the Department of Revenue for the purposes of carrying out the provisions of ORS 320.400 to 320.490 and 803.203.

(3) Any officer or employee of the Department of Transportation to whom information is disclosed under subsection (1) of this section is not required to execute a certificate under ORS 314.840 (3)(a).

(4) Except as otherwise provided in ORS 320.400 to 320.490 and 803.203, a person aggrieved by an act or determination of the Department of Revenue or its authorized agent under ORS 320.400 to 320.490 and 803.203 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person's liability for the transportation project taxes.

SECTION 18. ORS 181A.195 is amended to read:

181A.195. (1) As used in this section:

(a) "Authorized agency" means state government as defined in ORS 174.111 [and], the Oregon State Bar **or a municipal tax collection agency in a city with a population of 250,000 or more**. "Authorized agency" does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery; or

(B) A criminal justice agency, as defined in ORS 181A.010, that is authorized by federal law to receive fingerprint-based criminal records checks from the Federal Bureau of Investigation.

(b) "Subject individual" means a person from whom an authorized agency may require fingerprints pursuant to statute for the purpose of enabling the authorized agency to request a state or nationwide criminal records check.

(2)(a) An authorized agency may request that the Department of State Police conduct a criminal records check on a subject individual for non-criminal justice purposes.

(b) A criminal records check under this subsection must, if requested by the authorized agency, include a name-based check of the national sex offender registry maintained by the National Crime Information Center.

(c) If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints, except that the Federal Bureau of Investigation may retain the fingerprint cards and records of the fingerprints for purposes described in ORS 181A.205. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall destroy the fingerprint cards and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing information under ORS 181A.205.

(6) If only a state criminal records check is conducted, after the criminal records check is completed, the Department of State Police shall destroy the fingerprint cards and the results of the criminal records check provided to the authorized agency and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards and results or create facsimiles for the purpose of providing information under ORS 181A.205.

(7) An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, may adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules may include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this subsection, an authorized agency, using the rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall determine whether a subject individual is fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit. If a subject individual is determined to be unfit, then the individual may not hold the position, provide services, be employed or be granted a license, certification, registration or permit.

(b)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness determination of an individual under this subsection may request results of a previously made fitness determination from an authorized agency that has already made a fitness determination for the individual. An authorized agency that receives a request under this paragraph shall provide the requested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license, certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of Administrative Services by rule under ORS 181A.215; and

(iii) For whom a fitness determination has already been made.

(c) Except as otherwise provided in ORS 181A.400, in making the fitness determination under this subsection, the authorized agency shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or that indicate the making of a false statement;

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual's present or proposed position, services, employment, license, certification or registration; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit, such as:

(i) The passage of time since the commission of the crime;

(ii) The age of the subject individual at the time of the crime;

(iii) The likelihood of a repetition of offenses or of the commission of another crime;

(iv) The subsequent commission of another relevant crime;

(v) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(vi) The recommendation of an employer.

(d) A subject individual is not entitled to a fitness determination under this subsection if the subject individual:

(A) Is or seeks to be employed in any capacity having contact with a recipient of support services or a resident of a residential facility or adult foster home, as provided in ORS 443.004 (3), and has been convicted of any crime listed in ORS 443.004 (3) or (5).

(B) Is prohibited by federal law from holding a position, providing services, being employed or being granted a license, certification, registration or permit for which the fitness determination is requested by an authorized agency.

(11)(a) In conducting a fitness determination regarding a subject individual other than an individual described in paragraph (b) of this subsection, the Department of Human Services or the Oregon Health Authority may not consider:

(A) A conviction that is more than 10 years old unless the conviction is for a crime listed in ORS 443.004 (3) or (5);

(B) A charge or arrest for which there was no conviction unless the charge or arrest is for a crime listed in ORS 443.004 (3) or (5);

(C) A conviction on a charge relating to marijuana if the charge is no longer a criminal offense;

(D) A conviction under ORS 813.010, if the subject individual had no more than one conviction under ORS 813.010 in the five-year period prior to the date of the criminal records check;

(E) A deferred sentence, conditional discharge or participation in a diversion program for any crime unless the crime is listed in ORS 443.004 (3) and (5); and

(F) A pending indictment for a crime unless the crime is listed in ORS 443.004 (3) or (5).

(b) The department or the authority may consider a charge, arrest, conviction, deferred sentence, conditional discharge, participation in a diversion program or pending indictment that may not be considered under paragraph (a) of this subsection in making a fitness determination for a subject individual who is:

(A) Described in ORS 418.016;

(B) An employee, volunteer, contractor or provider in, or an agent of, a proctor foster home as defined in ORS 418.205 or a child-caring agency as defined in ORS 418.205;

(C) An exempt family child care provider, as defined in ORS 329A.430, the provider's household members who are 16 years of age or older or a frequent visitor of a provider who is subject to a criminal records check;

(D) An employee or volunteer in a facility that:

(i) Provides care to children and is operated by a school district, as defined in ORS 332.002, a political subdivision of this state, a preschool recorded program, as defined in ORS 329A.250, or a government agency; and

(ii) Is not required to be certified under ORS 329A.280; or

(E) An emergency medical services provider, as defined in ORS 682.025, for the purpose of determining the fitness of the emergency medical services provider to receive or hold a license under ORS 670.280.

(12) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

(13) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(14) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check.

SECTION 19. Section 20 of this 2021 Act is added to and made a part of ORS 181A.160 to 181A.250.

SECTION 20. (1) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, a municipal tax collection agency in a city with a population of 250,000 or more may require the fingerprints of a person who:

(a)(A) Is employed or applying for employment by the city; or

(B) Provides services or seeks to provide services to the city as a contractor or volunteer; and

(b) Is, or will be, working or providing services in a position in which the person will have access to federal tax information.

(2) A municipal tax collection agency in a city with a population of 250,000 or more may enter into a written agreement with the Department of State Police for purposes of conducting criminal records checks under this section. An agreement entered into under this subsection must include terms pertaining to the scope of work and reimbursement of costs.

SECTION 21. Section 6, chapter 826, Oregon Laws 2005, as amended by section 16, chapter 89, Oregon Laws 2014, and section 9, chapter 217, Oregon Laws 2015, is amended to read:

Sec. 6. Amounts received as a result of the sale of a manufactured dwelling park **are exempt from the tax imposed by this chapter:**

(1) **If the sale is made** to a corporate entity formed by the tenants of the park, or by a nonprofit corporation or housing authority, as described in [section 2, chapter 89, Oregon Laws 2014, are exempt from the tax imposed by this chapter] **ORS 90.844.**

(2) **If the manufactured dwelling park has been destroyed by a natural disaster, as defined in section 2, chapter _____, Oregon Laws 2021 (Enrolled House Bill 3219), and the sale is made to a nonprofit corporation or housing authority that will redevelop the site as a manufactured dwelling park.**

SECTION 22. Section 7, chapter 826, Oregon Laws 2005, as amended by section 21, chapter 906, Oregon Laws 2007, section 36, chapter 750, Oregon Laws 2013, section 14, chapter 217, Oregon Laws 2015, and section 20, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 7. (1) Section 6, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after January 1, 2006, and before January 1, 2026.

(2) The amendments to section 6, chapter 826, Oregon Laws 2005, by section 9, chapter 217, Oregon Laws 2015, apply to tax years beginning on or after January 1, 2015, and before January 1, 2026.

(3) **The amendments to section 6, chapter 826, Oregon Laws 2005, by section 21 of this 2021 Act apply to tax years beginning on or after January 1, 2021, and before January 1, 2026.**

SECTION 23. Section 9, chapter 826, Oregon Laws 2005, as amended by section 17, chapter 89, Oregon Laws 2014, and section 10, chapter 217, Oregon Laws 2015, is amended to read:

Sec. 9. Amounts received as a result of the sale of a manufactured dwelling park **are exempt from the tax imposed by this chapter:**

(1) **If the sale is made** to a corporate entity formed by the tenants of the park, or by a nonprofit corporation or housing authority, as described in [section 2, chapter 89, Oregon Laws 2014, are exempt from the tax imposed by this chapter ORS chapter] **ORS 90.844.**

(2) **If the manufactured dwelling park has been destroyed by a natural disaster, as defined in section 2, chapter _____, Oregon Laws 2021 (Enrolled House Bill 3219), and the sale is made to a nonprofit corporation or housing authority that will redevelop the site as a manufactured dwelling park.**

SECTION 24. Section 10, chapter 826, Oregon Laws 2005, as amended by section 22, chapter 906, Oregon Laws 2007, section 37, chapter 750, Oregon Laws 2013, section 15, chapter 217, Oregon Laws 2015, and section 22, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 10. (1) Section 9, chapter 826, Oregon Laws 2005, applies to tax years beginning on or after January 1, 2006, and before January 1, 2026.

(2) The amendments to section 9, chapter 826, Oregon Laws 2005, by section 10, chapter 217, Oregon Laws 2015, apply to tax years beginning on or after January 1, 2015, and before January 1, 2026.

(3) **The amendments to section 9, chapter 826, Oregon Laws 2005, by section 23 of this 2021 Act apply to tax years beginning on or after January 1, 2021, and before January 1, 2026.**

SECTION 25. ORS 315.593 is amended to read:

315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corporation, under ORS chapter 317 or 318) is allowed to a taxpayer, based upon short line railroad re-

habilitation project costs actually paid or incurred by the taxpayer during the tax year for which the credit is claimed.

(2) The credit allowed under this section shall be the least of:

(a) In the case of a tier I short line railroad, \$1,000 multiplied by the number of miles of short line railroad track the taxpayer owns or leases in this state on the day the short line railroad rehabilitation project is completed;

(b) In the case of a tier II short line railroad, \$3,500 multiplied by the number of miles of short line railroad track the taxpayer owns or leases in this state on the day the short line railroad rehabilitation project is completed; or

(c) Fifty percent of the short line railroad rehabilitation project costs paid or incurred by the taxpayer during the tax year in which the credit is claimed.

(3) For the credit to be allowed under this section:

(a) The infrastructure must be located in Oregon; and

(b) The taxpayer must:

(A) Own or lease the infrastructure;

(B) Be a short line railroad; and

(C) Receive a final written certification from the Department of Transportation before claiming the credit.

(4) The amount of the credit claimed under this section for any one tax year may not exceed the tax liability of the taxpayer.

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

(6) The credit allowed under this section is not in lieu of any depreciation or amortization deduction for the short line railroad rehabilitation project to which the taxpayer otherwise may be entitled for purposes of ORS chapter 316, 317 or 318 for the tax year.

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

[(8)(a) The Department of Revenue may by rule require that the Department of Transportation provide information about a certification issued under ORS 315.595, including the name and taxpayer identification number of the taxpayer or other person receiving certification, the date the certification was issued in its final form, the approved amount of credit and the first tax year for which the credit may be claimed.]

[(b) A taxpayer that is a pass-through entity that has received certification under ORS 315.595 shall provide to the Department of Revenue, within two months after the close of the tax year in which the certification was issued, the name, taxpayer identification number and any other information required by the department of each owner receiving a distributive share of the credit, in a manner prescribed by the department.]

[(9) The Department of Revenue shall prescribe by rule the manner and the timing of submission of the information described in subsection (8) of this section to the department.]

[(10)] (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

[(11)] (9) In the case of a credit allowed under this section:

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

(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

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

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

(11) The Director of Transportation may order the suspension or revocation of a certification issued under this section, as provided in ORS 315.061.

SECTION 26. ORS 315.595 is amended to read:

315.595. (1) Prior to construction of a short line railroad rehabilitation project, a taxpayer may apply to the Department of Transportation for preliminary certification of the project in the manner prescribed by rules adopted under this section, which must include:

(a) Timelines and deadlines for submission of application materials;

(b) A description of the information required by the department to determine that the taxpayer qualifies for the credit allowed under ORS 315.593;

(c) Criteria for determining the amount of the tax credit allowed under ORS 315.593, including standards for what constitutes completion of a short line railroad rehabilitation project;

(d) The process by which an applicant will be notified of an incomplete application and the time allowed for the applicant to provide the missing information; and

(e) The month and date by which the department must notify an applicant of the preliminary certification decision and the potential amount of the tax credit for which the applicant has received preliminary certification.

(2) If the total amount of potential tax credits allowed under ORS 315.593 for all taxpayers that have applied for preliminary certification exceeds the limit in ORS [~~315.593~~] **315.603**, the department shall allocate the tax credits allowed under ORS 315.593 as follows:

(a) By giving first priority to all tier II short line railroads that own or lease less than 75 miles of short line railroad track in this state; and

(b) By giving second priority to all tier II short line railroads not described in paragraph (a) of this subsection.

(3) If the department must allocate tax credits to a group of taxpayers in an amount that is less than the amount the taxpayers would otherwise receive under ORS 315.593, the department shall divide the available tax credits among the group proportionally, based on the amount each taxpayer would have otherwise received under ORS 315.593.

SECTION 27. The amendments to ORS 315.593 and 315.595 by sections 25 and 26 of this 2021 Act apply to tax years beginning on or after January 1, 2020, and before January 1, 2026.

SECTION 28. ORS 315.601 and 315.606 are repealed.

SECTION 29. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by House June 17, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 23, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State