House Bill 3386
Sponsored by Representative MOORE-GREEN

SUMMARY
The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Creates income tax credit for eligible costs of development of single-family owner-occupied housing that sells for price affordable to household with annual income at or below 80 percent of area median income.

Applies to tax years beginning on or after January 1, 2022, and before January 1, 2028.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT
Relating to tax credits for development of low-income single-family owner-occupied housing; creating new provisions; amending ORS 314.772 and 318.031; and prescribing an effective date.

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

SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS chapter 315.

SECTION 2. (1) As used in sections 2 and 3 of this 2021 Act:
(a) “Eligible costs” means the costs of acquisition, finance costs, permit costs and construction costs with respect to eligible residential property.
(b) “Eligible residential property” means one or more newly constructed single-family dwelling units located in this state that are sold for a qualified price.
(c) “Qualified price” means a price that is affordable to a household with an annual income at or below 80 percent of the area median income.
(d) “Qualified purchaser” means an individual whose household has an annual income at or below 80 percent of the area median income.
(e) For purposes of earning a tax credit under this section, “taxpayer” includes pass-through and tax-exempt entities.

(2) A credit is allowed against the taxes otherwise due under ORS chapter 316, or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for the development of eligible residential property for which a certificate of eligibility has been issued under section 3 of this 2021 Act.

(3) The credit shall be allowed for the first tax year of the taxpayer that begins after the taxpayer has closed on a contract of sale with a qualified purchaser who will occupy the eligible residential property as a single-family dwelling that is the qualified purchaser's principal residence.

(4) The credit shall be allowed for eligible costs incurred by the taxpayer with respect to the eligible residential property, determined using the criteria applicable to housing loans made under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in the tax year described in subsection (3) of this section 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 any credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any succeeding tax year.

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

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

(8)(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 under 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 the 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.

(9) A holder of a certificate of eligibility may transfer the certificate of eligibility to a taxpayer subject to tax under ORS chapter 316, 317 or 318, for an amount not less than 90 percent of the face value of the credit. The transfer must comply with ORS 315.056.

(10) The Housing and Community Services Department may order the suspension or revocation of a certificate of eligibility issued under this section, as provided in ORS 315.061.

SECTION 3. (1) In order to receive a tax credit under section 2 of this 2021 Act, a taxpayer must submit to the Housing and Community Services Department, on a form prescribed by the department, a claim with respect to each eligible residential property for which a credit is claimed.

(2) The claim must contain:

(a) Evidence showing:

(A) That the property is eligible residential property;

(B) That the taxpayer submitting the claim has closed on a contract of sale with a qualified purchaser for the eligible residential property; and

(C) The eligible costs for the eligible residential property; and

(b) Any other information the department may require.

(3)(a) If the department determines that the eligible residential property does not meet all the requirements under this section and section 2 of this 2021 Act, the department shall deny the application.

(b) If the department determines that the eligible residential property meets all the requirements under this section and section 2 of this 2021 Act, the department shall issue to the taxpayer a certificate of eligibility for the tax credit allowable under section 2 of this 2021 Act. The certificate shall state the approved amount of eligible costs for the eligible residential property.

(4) Notwithstanding that a certificate of eligibility has been issued to a taxpayer under this section, the Department of Revenue may disallow, in whole or in part, a claim for credit
under section 2 of this 2021 Act upon the department’s determination that, under the pro-
visions of section 2 of this 2021 Act, the taxpayer is not entitled to the credit or is entitled
to only a portion of the amount claimed.

(5)(a) The Department of Revenue may adopt rules for carrying out the provisions of this
section.

(b) The Housing and Community Services Department may adopt rules for issuing cer-
tificates of eligibility under this section and for monitoring taxpayer compliance with this
section.

(6) The Housing and Community Services Department shall provide information to the
Department of Revenue about all certificates of eligibility issued under this section, if re-
quired by ORS 315.058.

SECTION 4. ORS 314.772 is amended to read:

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

(2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on
income of the shareholder of an S corporation, there shall be taken into account the shareholder’s
pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
manner prescribed under section 1377(a) of the Internal Revenue Code.

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

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

(5) As used in this section, “business tax credit” means the following credits: ORS 315.104
(forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
(biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS
315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee
and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution
control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy
conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-
source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-
ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),
ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS
315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS
315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643
(Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account
contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone
facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research
expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,
Oregon Laws 2013 (alternative fuel vehicle contributions), and section 2 of this 2021 Act (single-family housing).

SECTION 5. ORS 318.031 is amended to read:

318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter 317 shall be administered as uniformly as possible (allowance being made for the difference in imposition of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are incorporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and 315.643 and section 2 of this 2021 Act (all only to the extent applicable to a corporation) and ORS chapter 317.

SECTION 6. Except as provided in section 2 (5) of this 2021 Act, sections 2 and 3 of this 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2028.

SECTION 7. 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.