

A-Engrossed
Senate Bill 141

Ordered by the Senate March 26
Including Senate Amendments dated March 26

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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.

Makes percentage of partial property tax exemption for property of vertical housing development projects proportional to allocation of [*equalized floors*] **floor area** to residential housing or low income residential housing, without rounding up or down. **Clarifies terminology used for computations of partial property tax exemption.**

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to vertical housing development projects; creating new provisions; amending ORS 307.841,
3 307.844, 307.857, 307.858, 307.861, 307.864, 307.866 and 307.867; and prescribing an effective date.

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

5 **SECTION 1.** ORS 307.841 is amended to read:

6 307.841. As used in ORS 307.841 to 307.867:

7 (1) "Construction" means the development of land and the construction of improvements to land,
8 and may be further defined by the city or county that designated the vertical housing development
9 zone under ORS 307.844.

10 (2) "Displacement" means a situation in which a household is forced to move from its current
11 residence due to conditions that affect the residence or the immediate surroundings of the residence
12 and that:

13 (a) A reasonable person would consider to be beyond the household's ability to prevent or con-
14 trol;

15 (b) Occur despite the household's having met all previously imposed conditions of occupancy;
16 and

17 (c) Make continued occupancy of the residence by the household unaffordable, hazardous or
18 impossible.

19 [(3) "*Equalized floor*" means the quotient determined under ORS 307.857 (4)(b).]

20 [(4)] (3) "Low income residential housing" means housing that is restricted to occupancy by
21 persons or families whose income is no greater than 80 percent of area median income, adjusted for
22 family size, as determined by the Housing and Community Services Department.

23 [(5)] (4) "Nonresidential use" means any use that is not exclusively residential use.

24 [(6)] (5) "Rehabilitation" means repair or replacement of improvements, including fixtures, or
25 land developments, the cost of which equals at least 20 percent of the real market value of the im-

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 improvements or land developments being repaired or replaced, and may be further defined by the city
2 or county that designated the zone.

3 [(7)] (6) “Vertical housing development project” or “project” means the construction or reha-
4 bilitation of a multiple-story building, or a group of buildings, including at least one multiple-story
5 building, so that a portion of the project is to be used for nonresidential uses and a portion of the
6 project is to be used for residential uses.

7 [(8)] (7) “Vertical housing development zone” or “zone” means an area that has been designated
8 a vertical housing development zone under ORS 307.844.

9 **SECTION 2.** ORS 307.857 is amended to read:

10 307.857. (1) Following the designation of a vertical housing development zone under ORS 307.844,
11 a person proposing to undertake a proposed vertical housing development project and seeking the
12 partial property tax exemption set forth in ORS 307.864 [shall] **must** apply to the governing body
13 of the city or county that designated the zone for certification of the project. Each phase of a
14 phased development, whether vertical or horizontal, requires a separate application.

15 (2) The application must be satisfactory to the city or county in form and content and must
16 contain any information required by the city or county, including all of the following:

17 (a) The address and boundaries of the proposed vertical housing development project.

18 (b) A description of the existing state of the property.

19 (c) A description of the proposed project construction or rehabilitation, including the design of
20 the construction or rehabilitation, the cost of the construction or rehabilitation and the number of
21 floors and residential units to be constructed or rehabilitated.

22 (d) A description of the nonresidential uses to which any portion of the proposed project is to
23 be put, including the proportion of total square footage of the project proposed for nonresidential
24 uses.

25 (e) A description of the proposed portion of the project to be used for residential uses, including
26 the proportion of total square footage of the project proposed for residential uses.

27 (f) A description of the number and nature of residential units in the proposed project that are
28 to be low income residential housing, including the proportion of total square footage of the project
29 proposed for low income residential housing uses.

30 (g) The [calculation and allocations described] **computations made** under subsection (4) of this
31 section.

32 (h) Documentation establishing the costs of construction and rehabilitation with respect to the
33 project.

34 (i) A commitment that is satisfactory to the city or county, including documentation and evi-
35 dence of recording of the documentation, that the project will be maintained and operated in a
36 manner consistent with the application submitted under this section for the duration of the com-
37 mitment. The duration of the commitment, including the eligibility of units in the project as low
38 income residential housing, may not be less than the number of tax years for which the project is
39 intended to be partially exempt from ad valorem property taxes under ORS 307.864.

40 (3) For purposes of this section, square footage does not include areas used for parking, patios
41 or porches, unless these areas are demonstrated to the satisfaction of the city or county to be eco-
42 nomically necessary to the project or the city or county otherwise determines that it is appropriate
43 to include the areas in square footage.

44 (4)[(a)] Each application filed under this section [shall] **must** contain [a calculation of equalized
45 floors, an allocation of equalized floors to residential uses and an allocation of equalized floors to low

1 *income residential housing uses as determined under this subsection.] the results of the following*
 2 **computations:**

3 *[(b)] (a) [An equalized floor is the quotient that results from the division of] The average floor*
 4 **area of a project equals the** total square footage of *[a] the project* **divided** by the number of *[ac-*
 5 *tual] floors of the project that are at least 500 square feet [per floor, or as] in area. The minimum*
 6 **area of the floors in the divisor** may be increased or otherwise qualified by the city or county by
 7 rule.

8 *[(c)] (b) [To allocate equalized floors] For purposes of determining the partial exemption*
 9 **under ORS 307.864, the exemption multiplier for square footage dedicated** to residential uses~~],~~
 10 *divide] shall be determined by dividing* the total square footage *[of residential property] dedicated*
 11 **to residential uses** in the project by the *[square footage of an equalized floor] average floor area*
 12 **of the project determined under paragraph (a) of this subsection, without rounding this**
 13 **quotient up or down.**

14 *[(d)] (c)(A) [To allocate equalized floors] For purposes of determining the partial exemption*
 15 **under ORS 307.864, the exemption multiplier for square footage dedicated** to low income resi-
 16 dential housing *[use, divide] shall be determined by dividing* the total square footage *[of] dedicated*
 17 **to low income residential housing [property] in the project by the [square footage of an equalized**
 18 **floor] average floor area of the project determined under paragraph (a) of this subsection,**
 19 **without rounding this quotient up or down. [In determining]**

20 **(B) For purposes of the computation made under this paragraph,** the square footage *[of]*
 21 **dedicated to** low income residential housing *[property,] shall* include that proportion of the **total**
 22 square footage of residential common space **in the project** that *[is the same as] equals* the propor-
 23 tion of the total square footage of low income residential housing units **in the project** to the total
 24 square footage of all residential housing units **in the project.**

25 *[(e)] (d) Land that is necessary for a project [having at least one equalized floor of low income*
 26 *residential housing may be] for which the exemption multiplier determined under paragraph (c)*
 27 **of this subsection equals at least 1.0 shall be certified for partial exemption using the same**
 28 **exemption multiplier as is used for the property of the project.** Land that is not necessary for
 29 *[the] a project may not be certified for partial exemption.*

30 (5)(a) For rehabilitation that does not involve displacement of tenants, the application must be
 31 filed on or before the date on which the rehabilitation is complete.

32 (b) The application must be filed on or before the date on which residential units that are a part
 33 of the vertical housing development project are ready for occupancy.

34 (6) The city or county shall review each application submitted under this section and shall cer-
 35 tify or deny certification based on whether the proposed vertical housing development project meets
 36 the requirements described in ORS 307.858 and all criteria established by the city or county that
 37 are consistent with ORS 307.841 to 307.867.

38 (7) The city or county may request any documentation or undertake any investigation necessary
 39 to ascertain the veracity of any statement made on an application under this section.

40 (8) The certification issued by the city or county *[shall] must:*

41 (a) Identify the property included in the certified vertical housing development project;

42 (b) Identify the *[number of equalized floors of residential housing] exemption multiplier based*
 43 **on the square footage** in the project **dedicated to residential uses as computed under sub-**
 44 **section (4)(b) of this section** and include a description of the property *[of each equalized floor] so*
 45 **dedicated;**

1 (c) Identify the *[number of equalized floors of]* **exemption multiplier based on the square**
2 **footage in the project dedicated to** low income residential housing *[in the project]* **as computed**
3 **under subsection (4)(c) of this section** and include a description of the property *[of each equalized*
4 *floor]* **so dedicated**; and

5 (d) Contain any other information prescribed by the city or county.

6 (9) The determination of the city or county to certify or deny certification is a discretionary
7 determination. The determination is final and is not subject to judicial or administrative review.

8 (10) The city or county may charge appropriate fees to offset the cost of administering the ap-
9 plication and certification process under this section and any other related costs.

10 **SECTION 3.** ORS 307.858 is amended to read:

11 307.858. (1) A city or county may not certify a vertical housing development project under ORS
12 307.857 unless the project meets all requirements of this section.

13 (2) The project must be entirely located within a vertical housing development zone designated
14 by the city or county with which the application for certification is filed.

15 (3) The project must *[include one or more equalized floors]* **have and maintain an exemption**
16 **multiplier of at least 1.0 as computed under ORS 307.857 (4)(b) or (c).**

17 (4) Construction or rehabilitation must have been started on each building included in the
18 project, including, but not limited to, additions that expand or enlarge an existing building.

19 (5)(a) At least 50 percent of the project's ground floor that fronts on the primary public street
20 must be committed to nonresidential use. If a project has access to only one public street, the square
21 footage of driveways, loading docks, bike storage, garbage receptacles and building entryways shall
22 be excluded before applying the 50 percent test.

23 (b) For the project's ground floor to be considered committed to nonresidential use, all ground
24 floor interior spaces that front on the primary public street must be constructed to building code
25 standards for commercial use or planned for commercial use upon completion.

26 **SECTION 4.** ORS 307.861 is amended to read:

27 307.861. (1) Upon determining to certify a vertical housing development project under ORS
28 307.857, the city or county shall send a copy of the certification to the county assessor of the county
29 in which the project is to be located. The certification must be accompanied by a description of the
30 property granted partial exemption under ORS 307.864.

31 (2) At any time after certification and prior to the end of the exemption period, the city or
32 county may:

33 (a) Request documentation, undertake investigations or otherwise review and monitor the
34 project to ensure ongoing compliance by project applicants and owners.

35 (b) Undertake any remedial action that the city or county determines to be necessary or ap-
36 propriate to fulfill the purposes of ORS 307.841 to 307.867, including issuing a notice of decertifica-
37 tion directing the county assessor to disqualify all or a portion of a project.

38 (3)(a) A notice of decertification issued under subsection (2)(b) of this section shall identify:

39 (A) The property decertified from the vertical housing development project;

40 (B) The *[number of equalized floors that have ceased qualifying as residential housing]* **amount**
41 **by which the exemption multiplier computed under ORS 307.857 (4)(b)** for purposes of ORS
42 307.841 to 307.867 **has decreased, if applicable**;

43 (C) The *[number of equalized floors that have ceased qualifying as low income residential*
44 *housing]* **amount by which the exemption multiplier computed under ORS 307.857 (4)(c)** for
45 purposes of ORS 307.841 to 307.867 **has decreased, if applicable**;

1 (D) The remaining *[number of equalized floors of residential housing in the project]* **amount of**
2 **the exemption multiplier computed under ORS 307.857 (4)(b)** and include a description of the
3 property *[of each remaining equalized floor]* **in the project that remains dedicated to residential**
4 **uses;** and

5 (E) The remaining *[number of equalized floors of low income residential housing in the project]*
6 **amount of the exemption multiplier computed under ORS 307.857 (4)(c)** and include a de-
7 scription of the property *[of each remaining equalized floor of]* **that remains dedicated to** low in-
8 come residential housing.

9 (b) The notice of decertification shall include any other information prescribed by the city or
10 county.

11 (c) The city or county shall send copies of the notice of decertification to the property owner
12 and the county assessor of the county in which the property is located.

13 **SECTION 5.** ORS 307.864 is amended to read:

14 307.864. (1) For the first tax year in which, as of the assessment date, a vertical housing devel-
15 opment project is occupied or ready for occupancy following certification under ORS 307.857, and
16 for the next nine consecutive tax years:

17 (a) The property of the vertical housing development project, *[except for]* **other than** the land
18 of the project, shall be partially exempt from ad valorem property taxes imposed by local taxing
19 districts, other than the districts that elected not to participate in the vertical housing development
20 zone pursuant to ORS 307.844 (4), *[according to the following schedule and]* as identified in the cer-
21 tification issued under ORS 307.857 (8)*[:]*, **in a percentage equal to the lesser of:**

22 **(A) 20 percent multiplied by the exemption multiplier for property dedicated to residential**
23 **uses or low income residential housing, as computed under ORS 307.857 (4)(b) or (c), respec-**
24 **tively; or**

25 **(B) 80 percent.**

26 *[(A) If the project consists of the equivalent of one equalized floor allocated to residential housing,*
27 *the project shall be 20 percent exempt.]*

28 *[(B) If the project consists of the equivalent of two equalized floors allocated to residential housing,*
29 *the project shall be 40 percent exempt.]*

30 *[(C) If the project consists of the equivalent of three equalized floors allocated to residential hous-*
31 *ing, the project shall be 60 percent exempt.]*

32 *[(D) If the project consists of the equivalent of four or more equalized floors allocated to residential*
33 *housing, the project shall be 80 percent exempt.]*

34 (b) The land of the vertical housing development project shall be partially exempt from ad
35 valorem property taxes imposed by local taxing districts, other than the districts that elected not
36 to participate in the vertical housing development zone pursuant to ORS 307.844 (4), in the same
37 *[percentages]* **percentage** determined under paragraph (a) of this subsection, for *[each equalized floor*
38 *allocated]* **property in the project dedicated** to low income residential housing, as identified in the
39 certification issued under ORS 307.857 (8).

40 (2) In order for the property of a vertical housing development project to receive the partial
41 property tax exemption described in subsection (1) of this section, the vertical housing development
42 project property owner, project applicant or other person responsible for the payment of property
43 taxes on the project must notify the city or county that the project is occupied or ready for occu-
44 pancy, and the city or county must notify the assessor of the county in which the project is located,
45 in the manner set forth in ORS 307.512, that the project is occupied or ready for occupancy and has

1 been certified under ORS 307.857.

2 **SECTION 6.** ORS 307.866 is amended to read:

3 307.866. (1)(a) During the period in which property of a vertical housing development project
4 would otherwise be partially exempt under ORS 307.864 (1)(a), if all or a portion of the project has
5 been decertified under ORS 307.861, the property is disqualified from **partial** exemption [*in propor-*
6 *tion to the equivalent of each equalized floor that has ceased qualifying as residential housing*] **to the**
7 **extent of the decrease in the exemption multiplier identified under ORS 307.861 (3)(a)(B) or**
8 **(C) for property in the project dedicated to residential uses or low income residential hous-**
9 **ing, respectively**, as set forth in the notice of decertification.

10 (b) During the period in which the land of a vertical housing development project would other-
11 wise be partially exempt under ORS 307.864 (1)(b), if all or a portion of the project has been decer-
12 tified under ORS 307.861, the land is disqualified from **partial** exemption [*in proportion to the*
13 *equivalent number of equalized floors that have ceased qualifying as*] **to the same extent as prop-**
14 **erty in the project dedicated to low income residential housing is disqualified**, as [*set forth in the*
15 *notice of decertification*] **determined under paragraph (a) of this subsection.**

16 (2) Notwithstanding ORS 307.864, there shall be added to the general property tax roll for the
17 tax year next following decertification described in subsection (1) of this section, to be collected and
18 distributed in the same manner as other real property tax, an amount equal to the difference be-
19 tween the taxes assessed against the property and land granted **partial** exemption under ORS
20 307.864 and the taxes that would have been assessed against the property and land but for the
21 **partial** exemption for each of the years, not to exceed the last 10 years, during which the property
22 and land were **partially** exempt from taxation under ORS 307.864.

23 (3) Notwithstanding ORS 307.864, if, after a period of **partial** exemption under ORS 307.864 has
24 terminated, the city or county that designated the zone in which the project is located discovers that
25 the property or land of a vertical housing development project was granted **partial** exemption to
26 which the project was not entitled, additional taxes may be collected as provided in subsection (2)
27 of this section, except that the number of years for which the additional taxes may be collected shall
28 be reduced by one year for each year that has elapsed since the year the property or land was last
29 granted **partial** exemption, beginning with the earliest year for which additional taxes are due.

30 (4) The assessment and tax rolls shall show potential additional tax liability for all property and
31 land granted **partial** exemption under ORS 307.864.

32 (5) Additional taxes collected under this section shall be deemed to have been imposed in the
33 year to which the additional taxes relate.

34 **SECTION 7.** ORS 307.844 is amended to read:

35 307.844. (1)(a) A city may designate an area within the city as a vertical housing development
36 zone.

37 (b) A county may designate as a vertical housing development zone an area that is subject to
38 a goal exception for residential use approved under ORS 197.732.

39 (2) With the prior consent of the governing body of each city in which a proposed vertical
40 housing development zone is to be located, a county may designate any area within each city that
41 has given consent for vertical housing development zone designation as a vertical housing develop-
42 ment zone.

43 (3) A city and a county, or any combination of cities and counties, may designate an area within
44 each jurisdiction as a vertical housing development zone.

45 (4) A local taxing district may elect not to participate in a vertical housing development zone.

1 A local taxing district that elects not to participate may continue to impose taxes on property oth-
2 erwise exempt from ad valorem property tax under ORS 307.864.

3 (5) A city or county must consider the potential for displacement of households within a pro-
4 posed vertical housing development zone before designating the zone.

5 (6)(a) Before designating a vertical housing development zone, a city or county, as applicable,
6 must notify the local taxing districts, other than the city or county, that have territory in the pro-
7 posed vertical housing development zone of the city's or county's intention to designate a vertical
8 housing development zone.

9 (b) The notice required under paragraph (a) of this subsection must be sent by regular mail and
10 must:

11 (A) Describe the proposed vertical housing development zone;

12 (B) Explain the **partial** exemption described in ORS 307.864 that would apply if the proposed
13 zone is designated; and

14 (C) Explain the process by which a local taxing district may elect not to participate in the
15 vertical housing development zone.

16 (c) Notice of the election of a district listed in ORS 198.010 or 198.180 not to participate in the
17 vertical housing development zone must be received by the city or county, as applicable, within 30
18 days after the district receives the notice required under paragraph (a) of this subsection.

19 (7)(a) Not sooner than 60 days after sending the notice required under subsection (6)(a) of this
20 section, the governing body of the city or county that seeks to designate a vertical housing devel-
21 opment zone may adopt an ordinance or resolution designating the vertical housing development
22 zone and describing the area and boundaries of the zone. The ordinance or resolution may include
23 additional criteria for certification of a vertical housing development project that do not conflict
24 with the requirements described in ORS 307.858.

25 (b) As soon as practicable after adopting the ordinance or resolution designating the zone, the
26 governing body shall notify the assessor of the county in which the zone is located of the desig-
27 nation of the zone and the districts that elected not to participate in the zone.

28 **SECTION 8.** ORS 307.867 is amended to read:

29 307.867. (1) A city or county that designates a vertical housing development zone under ORS
30 307.844 may terminate the zone at any time.

31 (2) The termination of a zone under this section does not affect the **partial** exemption from tax
32 under ORS 307.864 of any property of a vertical housing development project that was certified un-
33 der ORS 307.857 prior to the termination of the zone and that continues to qualify for the **partial**
34 exemption at the time of the termination of the zone.

35 **SECTION 9.** The amendments to ORS 307.841, 307.844, 307.857, 307.858, 307.861, 307.864,
36 307.866 and 307.867 by sections 1 to 8 of this 2021 Act apply to property tax years beginning
37 on or after July 1, 2021.

38 **SECTION 10.** This 2021 Act takes effect on the 91st day after the date on which the 2021
39 regular session of the Eighty-first Legislative Assembly adjourns sine die.

40