



April 8, 2023

Representative Nancy Nathanson
Co-Chair, Joint Committee on Tax Expenditures
900 Court St NE, H-279
Salem, OR 97301

Subject: HB 2653

Dear Co-Chair Nathanson, Co-Chair Meek, Co-Vice-Chairs, and members of the Joint Committee. I am writing to provide additional information on House Bill 2653 and to respond to questions raised by several members of the Committee during the Public Hearing on April 7, 2023.

HB 2653 would create a new tax credit used to help secure expiring affordable housing projects for continued use. The purpose of the tax credit is to incentivize owners to sell their affordable rental housing property to a buyer willing to preserve it, rather than having the property convert to market rate. The seller, not the purchaser, would benefit from the credit.

Once the preservation buyer has secured the property, they will assemble the resources needed to recapitalize and preserve the property for an additional 30 to 60 years of service. Typically, those preservation resources would come from Oregon Housing and Community Services through one of several annual preservation offerings. Last biennium for example, OHCS made a total of \$185 million available through six separate preservation offerings. The 2023-25 OHCS Agency Request Budget includes \$118 million for preservation resources.

When a property is at risk of converting to market rate, the first step toward preserving it, is to acquire and secure it. HB 3042 offers an incentive to owners to sell to a preservation focused buyer at a modest cost to taxpayers.

Further, the preservation tax credit will offer a strong incentive for some long-time owners of subsidized housing who simply can't afford to sell their property due to the stepped-up basis rule.

House Bill 2653 would help address a significant impediment to preserving some older, subsidized properties: federal depreciation tax recapture due on sale. Because of the recapture provision, many long-time owners simply can't afford to sell their property without relief from capital gains taxes. As a result, some long-time owners hold on to their investment until death and the property is passed to their heirs and the negative basis is eliminated by the stepped-up basis rule. Meanwhile, conditions at the property deteriorate as the property owners lack motivation to invest additional funds in the upkeep, but simply can't afford to sell it.

Responses to the questions:

Representative Smith asked, how will this be tracked (enforced), through a deed of trust?

Yes. SECTION 2 (4) references a recorded affordability restriction agreement extending affordability at current levels to a maximum of 80 AMI, for a period of at least 30 years.

Senator Golden asked, can the tax credit be used as an incentive for owners of existing affordable housing to extend their use restrictions?

No. As mentioned above, there are public resources current owners can access if they wish to preserve their properties and extend the affordability term. These include grants, tax credits and loans with favorable terms, through OHCS and through some local jurisdictions. That said, there is great demand for these resources and a demonstrated need for additional preservation capital.

By design, access to the preservation tax credit is limited to arms-length, 3rd party sales in order to avoid related parties having an identity of interest, from benefitting from the tax credit.

Senator Boquist stated that available preservation resources are inadequate and that we need to do more to preserve our expiring affordable housing portfolio.

Yes and yes! HB 2653 offers an incentive for owners of affordable housing to sell their property to someone willing to preserve it. Other bills this session seek preservation resources as well as protections for residents who may be exposed to large rent increases when an expired affordable housing project transitions to market rent (HB 3042).

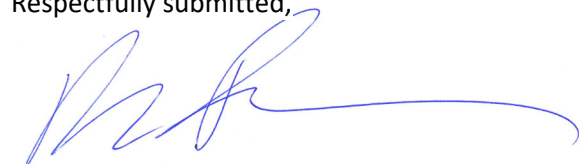
Representative Marsh asked if the tax credit could be used by a non-profit owner. No. Typically, nonprofits are tax exempt and can't use tax credits. By design, the tax credit is neither transferable nor refundable. In practice, most owners of expiring affordable housing properties who plan to convert to market rate rentals are for-profit. Nonprofits are mission focused and nearly always maintain their properties as affordable even after expiration of affordability restrictions.

Finally, several Committee members expressed interest in the Committee holding an informational hearing on preservation needs, policy and best practices. I would be honored to help assemble a panel of recognized experts to participate in an informational hearing on preservation.

Again, the purpose of the preservation tax credit is to incentivize owners to sell their property to someone who will preserve it, before it is converted to market rate housing. HB 2653 will add a new tool to Oregon's preservation toolbox that will help secure at-risk properties so they can be preserved for the long-term.

If Committee members have any additional questions, please do not hesitate to reach out to me at robp@noah-housing.org.

Respectfully submitted,



Rob Prasch, Preservation Director
Network for Oregon Affordable Housing