

Enrolled House Bill 2071

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue for Representative Nancy Nathanson)

CHAPTER

AN ACT

Relating to revenue; creating new provisions; amending ORS 314.772, 316.792, 317.097 and 318.031 and section 19, chapter 954, Oregon Laws 2001, section 66, chapter 832, Oregon Laws 2005, section 9, chapter 765, Oregon Laws 2007, sections 11, 21, 24, 27, 28, 30 and 34, chapter 913, Oregon Laws 2009, and sections 5 and 17, chapter 579, Oregon Laws 2019; and prescribing an effective date.

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

SECTION 1. Section 11, chapter 913, Oregon Laws 2009, as amended by section 18a, chapter 730, Oregon Laws 2011, and section 34, chapter 610, Oregon Laws 2017, is amended to read:

Sec. 11. The State Department of Fish and Wildlife may not issue a preliminary certificate of approval under ORS 315.138 after January 1, [2024] **2030**.

SECTION 2. ORS 317.097, as amended by section 25, chapter 83, Oregon Laws 2022, is amended to read:

317.097. (1) As used in this section:

(a) "Annual rate" means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) "Bonds" means a bond, as defined in ORS 286A.001, if issued on behalf of the Housing and Community Services Department, or bonds, as defined in ORS 456.055, if issued by a housing authority.

(c) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

(d) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(e) "**Limited equity cooperative**" means a cooperative corporation formed under ORS chapter 62 whose articles of incorporation, in addition to the other requirements of ORS chapter 62, prohibit members from selling their ownership interests:

(A) To any person other than a low income person; or

(B) For a sales price that exceeds the sum of:

(i) The price the member paid for the ownership interest;

(ii) The cost of any permanent improvements the member made to the housing unit during the member's ownership;

(iii) Any special assessments the member paid to the limited equity cooperative during the member's ownership that were expended to make permanent improvements to the building in which the member's housing unit is located; and

(iv) A return on the amounts described in sub-subparagraphs (i) to (iii) of this subparagraph, computed from the year in which the respective amount was paid, that equals the greater of the result of adjusting each amount by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or of increasing each amount by three percent compounded annually.

~~[(e)]~~ (f) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

~~[(f)]~~ (g) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2021.

~~[(g)]~~ (h) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

~~[(h)]~~ (i) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

~~[(i)]~~ (j) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

~~[(j)]~~ (k) "Qualified loan" means:

(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

(B) The purchase by a lending institution of bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

~~[(k)]~~ (L) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(2) The Department of Revenue shall allow a credit against taxes otherwise due under this chapter for the tax year to a lending institution that makes a qualified loan certified by the Housing and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the tax year at an annual rate less than the market rate for a qualified loan that is made before January 1, 2026, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the tax year by the lending institution for the qualified loan for housing construction, development, acquisition or rehabilitation measured at the annual rate charged by the lending institution for unsubsidized loans made under like terms and conditions at the time the qualified loan for housing construction, development, acquisition or rehabilitation is made.

(3) The maximum amount of credit for the difference between the amounts described in subsection (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of the qualified loan during the tax year for which the credit is claimed.

(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular 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, and any credit not used

in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and 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.

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or making a loan directly to:

(a) An individual or individuals who own a dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level when the loan is made of less than 80 percent of the area median income;

(b) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing, **including housing in the form of a limited equity cooperative**; and

(B) Provides a written certification executed by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning less than 80 percent of the area median income; and

[(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments;]

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on, in the form of reduced housing payments, to the tenants or to the holders of proprietary leases in a limited equity cooperative;

(c) Subject to subsection (14) of this section, a qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed;

(d) A qualified borrower who:

(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a preservation project; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

(i) Is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower; or

(e) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department or the governmental party to the rent assistance contract that the housing preserved by the loan:

(i) Is or will be occupied by households earning less than 80 percent of the area median income; and

(ii) Is the subject of a rent assistance contract with the federal government or with a state or local government that will be maintained by the qualified borrower and that limits a tenant's rent to no more than 30 percent of their income.

(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this section must be treated the same as a loan that meets the criteria stated in subsection (5) of this section.

(7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing and Community Services Department must execute a written certification for the qualified loan that:

(a) States that the qualified loan is within the limitation imposed by subsection (8) of this section; and

(b) Specifies the period, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan, not to exceed:

(A) 30 years, for a qualified loan with a contract for rent assistance or financing resources from the United States Department of Agriculture, for new housing construction, acquisition of housing or a preservation project; or

(B) 20 years, for any other type of qualified loan.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed \$35 million for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

(9) The tax credit provided for in this section may be taken whether or not:

(a) The financial institution is eligible to take a federal income tax credit under section 42 of the Internal Revenue Code with respect to the project financed by the qualified loan; or

(b) The project receives financing from bonds, the interest on which is exempt from federal taxation under section 103 of the Internal Revenue Code.

(10) For a qualified loan defined in subsection [(1)(j)(B)] **(1)(k)(B)** of this section financed through the purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the Internal Revenue Code, the amount of finance charge that would have been charged under subsection (2)(b) of this section is determined by reference to the finance charge that would have been charged if the federally tax exempt bonds had been issued and the tax credit under this section did not apply.

(11) A lending institution may sell a qualified loan for which a certification has been executed to a qualified assignee whether or not the lending institution retains servicing of the qualified loan so long as a designated lending institution maintains records, annually verified by a loan servicer, that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

(13) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for a tax credit under this section.

(14) Notwithstanding subsection [(1)(i) and (k)] **(1)(j) and (L)** of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be:

(a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority; or

(b) A nonprofit corporation or housing authority that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

(15) The Department of Revenue may require that a lending institution that has earned the credit and a lending institution that intends to claim the credit jointly file a notice, as prescribed by the Department of Revenue. The notice must comply with ORS 315.056 (2) or 315.058 (2).

(16) The Housing and Community Services Department shall provide information to the Department of Revenue about all certifications executed under this section, if required by ORS 315.058.

(17) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

SECTION 3. The amendments to ORS 317.097 by section 2 of this 2023 Act apply to tax years beginning on or after January 1, 2024.

SECTION 4. Section 30, chapter 913, Oregon Laws 2009, as amended by section 1, chapter 475, Oregon Laws 2011, and section 3, chapter 610, Oregon Laws 2017, is amended to read:

Sec. 30. The Housing and Community Services Department may not issue a certificate under ORS 317.097 on or after January 1, [2026] **2032**.

SECTION 5. Section 28, chapter 913, Oregon Laws 2009, as amended by section 18, chapter 750, Oregon Laws 2013, and section 30, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 28. Except as provided in ORS 315.164 (8), a credit may not be claimed under ORS 315.164 for agriculture workforce housing projects completed in tax years beginning on or after January 1, [2026] **2032**.

SECTION 6. ORS 316.792 is amended to read:

316.792. (1) As used in this section:

(a) "Armed Forces of the United States" means all regular and reserve components of the United States Army, Navy, Air Force, Marine Corps and Coast Guard and other uniformed services under the orders of the President of the United States.

(b) "Military pay" means pay for active duty, inactive duty, training and reserve component duty, including state active duty, and any other compensation, other than retirement pay or pension, paid by the Armed Forces of the United States to a member of the Armed Forces of the United States.

(c) "Reserve component duty" includes duty performed as a member of the reserve components that is not federal active duty.

(d) "Reserve components" includes all National Guard and reserve departments of the Armed Forces of the United States.

(e) "Uniformed services" includes the commissioned corps of the National Oceanic and Atmospheric Administration and the United States Public Health Service.

(2) There shall be subtracted from federal taxable income military pay received for:

(a) Service performed outside this state in the year of initial draft or enlistment or in the year of discharge.

(b) Service performed outside this state during any month beginning on or after August 1, 1990, and before the date designated by the President of the United States as the date of termination of combatant activities in the Persian Gulf Desert Shield area.

(c) Service by a member of the reserve components, if:

(A) The military pay is for service performed when the taxpayer is away from the home of the taxpayer overnight;

(B) The taxpayer is required to be away from home overnight in order to perform the service; and

(C) The service is of a duration of at least 21 consecutive days, although the consecutive days need not be in the same tax year.

(d) Service performed by a member of the Oregon National Guard while in active service of the state or on state active duty, as defined in section 2, chapter 122, Oregon Laws 2023 (Enrolled Senate Bill 1033).

[(d)] (e) Service not otherwise qualified for a subtraction under paragraphs (a) to [(c)] (d) of this subsection, not to exceed \$6,000 per year.

(3) The total amount subtracted under this section may not exceed the taxpayer's total military pay included in federal taxable income for the tax year.

SECTION 7. The amendments to ORS 316.792 by section 6 of this 2023 Act apply to tax years beginning on or after January 1, 2021.

SECTION 8. Section 19, chapter 954, Oregon Laws 2001, as amended by section 35, chapter 913, Oregon Laws 2009, section 8, chapter 750, Oregon Laws 2013, and section 18, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 19. ORS 315.675 applies to tax years beginning on or after January 1, 2002, and before January 1, [2026] **2028**.

SECTION 9. Section 34, chapter 913, Oregon Laws 2009, as amended by section 7, chapter 750, Oregon Laws 2013, and section 48, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 34. (1) A credit may not be claimed under ORS 316.102 for tax years beginning on or after January 1, [2026] **2028**.

(2) The amendments to ORS 316.102 by section 49 of this 2019 Act apply to tax years beginning on or after January 1, 2020, and before January 1, [2026] **2028**.

SECTION 10. Section 66, chapter 832, Oregon Laws 2005, as amended by section 26, chapter 913, Oregon Laws 2009, section 16, chapter 750, Oregon Laws 2013, and section 28, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 66. ORS 315.622 applies to tax credit certifications issued by the Office of Rural Health on or after January 1, 2006, and before January 1, [2026] **2028**.

SECTION 11. Section 24, chapter 913, Oregon Laws 2009, as amended by section 17, chapter 750, Oregon Laws 2013, and section 29, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 24. Except as provided in ORS 315.237 (6), a credit may not be claimed under ORS 315.237 for tax years beginning on or after January 1, [2026] **2030**.

SECTION 12. Section 5, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 5. [Sections 2 and 3 of this 2019 Act] **ORS 315.650 and 315.653** apply to tax years beginning on or after January 1, 2020, and before January 1, [2026] **2030**.

SECTION 13. Section 17, chapter 579, Oregon Laws 2019, is amended to read:

Sec. 17. (1) [Sections 7 to 14 of this 2019 Act] **ORS 315.591 to 315.603** apply to tax years beginning on or after January 1, 2020, and before January 1, [2026] **2030**.

(2) Except as provided in [section 8 (5) of this 2019 Act] **ORS 315.593 (5)**, a credit may not be claimed under [section 8 of this 2019 Act] **ORS 315.593** for tax years beginning on or after January 1, [2026] **2030**.

SECTION 14. Section 21, chapter 913, Oregon Laws 2009, as amended by section 28, chapter 76, Oregon Laws 2010, and section 1, chapter 610, Oregon Laws 2017, is amended to read:

Sec. 21. A credit may not be claimed under ORS [285C.309] **315.506** for tax years beginning on or after January 1, [2028] **2030**.

SECTION 15. Section 27, chapter 913, Oregon Laws 2009, as amended by section 43, chapter 750, Oregon Laws 2013, section 1, chapter 31, Oregon Laws 2016, and section 4, chapter 525, Oregon Laws 2021, is amended to read:

Sec. 27. A credit may not be claimed under ORS 315.640 if the initial tax year in which the credit would otherwise be allowed begins on or after January 1, [2028] **2030**.

SECTION 16. Section 9, chapter 765, Oregon Laws 2007, as amended by section 7, chapter 701, Oregon Laws 2015, and section 7, chapter 525, Oregon Laws 2021, is amended to read:

Sec. 9. (1) A credit may not be claimed under ORS 315.271 and 458.690 for tax years beginning on or after January 1, [2028] **2030**.

(2) The amendments to ORS 315.271 by section 6 [of this 2021 Act], **chapter 525, Oregon Laws 2021**, apply to tax years beginning on or after January 1, 2022, and before January 1, [2028] **2030**.

SECTION 17. Sections 18 to 22 of this 2023 Act are added to and made a part of ORS chapter 315.

SECTION 18. As used in sections 18 to 22 of this 2023 Act:

(1) “Affordability restriction” has the meaning given that term in ORS 456.250.

(2) “Identity of interest” means a relationship in which a purchaser and seller are related by blood or marriage or are affiliated through a business relationship.

(3) “Publicly supported housing” has the meaning given that term in ORS 456.250.

(4) “Qualifying sale” means any sale of publicly supported housing to a purchaser that enters into a recorded affordability restriction agreement governing the use of the housing that:

(a) Applies to publicly supported housing on or before the expiration of the right of first refusal under ORS 456.262 (3)(d); and

(b) Adopts affordability restrictions for a period of at least 30 years that:

(A) For dwelling units of the participating property that were subject to an expired or expiring affordability restriction, extend those expired or expiring restrictions, except in cases where the affordability restriction was based on a project-based rental assistance program which has been terminated by the issuing agency; or

(B) For any other dwelling units, require rental rates for the housing to be affordable under federal rental affordability standards to households earning 80 percent of the area median income.

SECTION 19. (1) A taxpayer is allowed a credit against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for a qualifying sale in Oregon of publicly supported housing during the tax year. The amount of the credit allowed under this section may not exceed:

(a) For housing owned by the taxpayer for at least five years, 2.5 percent of the lesser of the housing’s sale price or the appraisal under section 20 (2)(e) of this 2023 Act; or

(b) For housing owned by the taxpayer for at least 10 years, five percent of the lesser of the housing’s sale price or the appraisal under section 20 (2)(e) of this 2023 Act.

(2) In order to claim a credit under this section, a taxpayer must:

(a) Lack identity of interest with the purchaser; and

(b) Receive certification of a credit under section 20 (6) of this 2023 Act and submit the certification to the Department of Revenue upon request of the department.

(3) The Department of Revenue may:

(a) Adopt rules for carrying out the provisions of this section; and

(b) Prescribe the form used to claim a credit under this section and the information required on the form.

(4) 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.

(5) In the case of a credit allowed under this section:

(a) A nonresident is 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 must be determined in a manner consistent with ORS 316.117.

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

SECTION 20. (1) Before purchasing a property that is publicly supported housing, a purchaser intending to reserve the credit allowed under section 19 of this 2023 Act on behalf of the seller shall apply to the Housing and Community Services Department for a reservation.

(2) The application for a reservation under this section must be on a form prescribed by the Housing and Community Services Department and must provide:

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

- (b) The location of the publicly supported housing;
 - (c) A description of the use to which the housing will be put following the qualifying sale;
 - (d) The number of affordable housing units that will be maintained within the housing following the qualifying sale and the projected duration, in years, of the availability of the units as affordable housing;
 - (e) An appraisal of the housing conducted by an appraiser as defined in ORS 674.200;
 - (f) The anticipated amount of credit to be reserved by the seller;
 - (g) The calendar year in which the purchaser anticipates completing the qualifying sale;
- and
- (h) Any other information as the Housing and Community Services Department may require.

(3) The Housing and Community Services Department may review applications for a reservation using any reasonable system of prioritizing review established by the Housing and Community Services Department by rule.

(4) Applications for reservations of a credit filed in compliance with this section may be approved by the Housing and Community Services Department only to the extent that the total amount of credits for all approved qualifying sales for the calendar year is equal to or less than the limitation in section 22 of this 2023 Act. The Housing and Community Services Department may deny an application, or may approve a reduced amount of credit, if the addition of the anticipated amount of credit to previously approved amounts of credits for the calendar year would exceed the limitation in section 22 of this 2023 Act.

(5) Upon approval of a reservation of a credit, and not later than January 15 of the year following the filing of the application, the Housing and Community Services Department shall issue a reservation to the purchaser. The reservation must state the approved amount of credit. The reservation may include conditions that must be met in order for a credit to be claimed by the seller under section 19 of this 2023 Act.

(6) The Housing and Community Services Department, following notification of the close of the qualifying sale, including the final purchase price, shall send to the seller a certification of the seller's claim to the credit in an amount not to exceed the lesser of the amount reserved or the amount calculated under section 19 (1) of this 2023 Act based on the final purchase price.

(7) At the end of each calendar year, the Housing and Community Services Department shall send a list of the names, addresses and taxpayer identification numbers of sellers to whom a certification has been issued under subsection (6) of this section during the calendar year, along with approved amounts of credit for each qualifying sale, to the Department of Revenue.

(8) A tax credit may not be issued under this section for the sale of a property that, within the previous 30 years, was awarded a tax credit under section 19 of this 2023 Act.

(9) The Housing and Community Services Department may establish an application process for the registration and certification of credits under this section.

(10) Notwithstanding that a certification has been issued to a seller under this section, the Department of Revenue may disallow, in whole or in part, a claim for credit upon the Department of Revenue's determination that the seller is not entitled to the credit or is entitled only to a portion of the amount claimed under section 19 of this 2023 Act.

(11) The Housing and Community Services Department may adopt rules to implement this section.

SECTION 21. (1) For any tax credit certification that is issued under section 20 of this 2023 Act, the Department of Revenue may by rule require that the Housing and Community Services Department provide information about the certification, 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.

(2) A taxpayer that is a pass-through entity that has received certification for a credit allowed under section 19 of this 2023 Act shall provide the information described in subsection (1) of this section to the Department of Revenue within two months after the close of the tax year in which the certification was issued.

(3) The Department of Revenue shall prescribe by rule the manner and the timing of submission to the Department of Revenue of the information described in subsection (1) of this section.

SECTION 22. The total amount certified by the Housing and Community Services Department for tax credits for affordable housing under section 19 of this 2023 Act may not exceed \$3 million for all taxpayers for any calendar year.

SECTION 23. ORS 314.772, as amended by section 11, chapter 34, Oregon Laws 2022, and section 15, chapter 115, Oregon Laws 2022, 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), recapture 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 resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facilities), 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), section 2, chapter 34, Oregon Laws 2022 (small forest option), and section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and section 19 of this 2023 Act (affordable housing sales).**

SECTION 24. ORS 318.031, as amended by section 12, chapter 34, Oregon Laws 2022, and section 16, chapter 115, Oregon Laws 2022, 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 im-

position 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, chapter 34, Oregon Laws 2022, and section 8, chapter 115, Oregon Laws 2022, **and section 19 of this 2023 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

SECTION 25. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by House June 13, 2023

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

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Dan Rayfield, Speaker of House

Passed by Senate June 22, 2023

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Rob Wagner, President of Senate

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

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Secretary of State