

HB 2071-4
(LC 1581)
6/6/23 (CMT/ps)

Requested by JOINT COMMITTEE ON TAX EXPENDITURES

**PROPOSED AMENDMENTS TO
HOUSE BILL 2071**

1 In line 2 of the printed bill, after “revenue” insert “; creating new pro-
2 visions; amending ORS 316.792 and 317.097 and section 19, chapter 954,
3 Oregon Laws 2001, section 66, chapter 832, Oregon Laws 2005, section 9,
4 chapter 765, Oregon Laws 2007, sections 11, 21, 24, 27, 28, 30 and 34, chapter
5 913, Oregon Laws 2009, and sections 5 and 17, chapter 579, Oregon Laws 2019;
6 and prescribing an effective date”.

7 Delete lines 4 through 8 and insert:

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

11 **“Sec. 11.** The State Department of Fish and Wildlife may not issue a
12 preliminary certificate of approval under ORS 315.138 after January 1,
13 [2024] **2030.**

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

16 “317.097. (1) As used in this section:

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

20 “(b) ‘Bonds’ means a bond, as defined in ORS 286A.001, if issued on behalf
21 of the Housing and Community Services Department, or bonds, as defined in

1 ORS 456.055, if issued by a housing authority.

2 “(c) ‘Finance charge’ means the total of all interest, loan fees, interest
3 on any loan fees financed by the lending institution, and other charges re-
4 lated to the cost of obtaining credit.

5 “(d) ‘Lending institution’ means any insured institution, as that term is
6 defined in ORS 706.008, any mortgage banking company that maintains an
7 office in this state or any community development corporation that is or-
8 ganized under the Oregon Nonprofit Corporation Law.

9 “(e) **‘Limited equity cooperative’ means a cooperative corporation**
10 **formed under ORS chapter 62 whose articles of incorporation, in ad-**
11 **dition to the other requirements of ORS chapter 62, prohibit members**
12 **from selling their ownership interests:**

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

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

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

16 **“(ii) The cost of any permanent improvements the member made**
17 **to the housing unit during the member’s ownership;**

18 **“(iii) Any special assessments the member paid to the limited equity**
19 **cooperative during the member’s ownership that were expended to**
20 **make permanent improvements to the building in which the member’s**
21 **housing unit is located; and**

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

30 “[e] (f) ‘Manufactured dwelling park’ has the meaning given that term

1 in ORS 446.003.

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

5 “[*g*] (h) ‘Preservation project’ means housing that was previously de-
6 veloped as affordable housing with a contract for rent assistance from the
7 United States Department of Housing and Urban Development or the United
8 States Department of Agriculture and that is being acquired by a sponsoring
9 entity.

10 “[*h*] (i) ‘Qualified assignee’ means any investor participating in the
11 secondary market for real estate loans.

12 “[*i*] (j) ‘Qualified borrower’ means any borrower that is a sponsoring
13 entity that has a controlling interest in the real property that is financed
14 by a qualified loan. A controlling interest includes a controlling interest in
15 the general partner of a limited partnership that owns the real property.

16 “[*j*] (k) ‘Qualified loan’ means:

17 “(A) A loan that meets the criteria stated in subsection (5) of this section
18 or that is made to refinance a loan that meets the criteria described in sub-
19 section (5) of this section; or

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

23 “[*k*] (L) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit
24 cooperative, state governmental entity, local unit of government as defined
25 in ORS 466.706, housing authority or any other person, provided that the
26 person has agreed to restrictive covenants imposed by a nonprofit corpo-
27 ration, nonprofit cooperative, state governmental entity, local unit of gov-
28 ernment or housing authority.

29 “(2) The Department of Revenue shall allow a credit against taxes other-
30 wise due under this chapter for the tax year to a lending institution that

1 makes a qualified loan certified by the Housing and Community Services
2 Department as provided in subsection (7) of this section. The amount of the
3 credit is equal to the difference between:

4 “(a) The amount of finance charge charged by the lending institution
5 during the tax year at an annual rate less than the market rate for a quali-
6 fied loan that is made before January 1, 2026, that complies with the re-
7 quirements of this section; and

8 “(b) The amount of finance charge that would have been charged during
9 the tax year by the lending institution for the qualified loan for housing
10 construction, development, acquisition or rehabilitation measured at the an-
11 nual rate charged by the lending institution for nonsubsidized loans made
12 under like terms and conditions at the time the qualified loan for housing
13 construction, development, acquisition or rehabilitation is made.

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

18 “(4) Any tax credit allowed under this section that is not used by the
19 taxpayer in a particular year may be carried forward and offset against the
20 taxpayer’s tax liability for the next succeeding tax year. Any credit remain-
21 ing unused in the next succeeding tax year may be carried forward and used
22 in the second succeeding tax year, and likewise, any credit not used in that
23 second succeeding tax year may be carried forward and used in the third
24 succeeding tax year, and any credit not used in that third succeeding tax
25 year may be carried forward and used in the fourth succeeding tax year, and
26 any credit not used in that fourth succeeding tax year may be carried for-
27 ward and used in the fifth succeeding tax year, but may not be carried for-
28 ward for any tax year thereafter.

29 “(5) To be eligible for the tax credit allowable under this section, a
30 lending institution must make a qualified loan by either purchasing bonds,

1 the proceeds of which are used to finance or refinance a loan that meets the
2 criteria stated in this subsection, or making a loan directly to:

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

7 “(b) A qualified borrower who:

8 “(A) Uses the loan proceeds to finance construction, development, acqui-
9 sition or rehabilitation of housing, **including housing in the form of a**
10 **limited equity cooperative**; and

11 “(B) Provides a written certification executed by the Housing and Com-
12 munity Services Department that the:

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

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

18 “**(ii) Full amount of savings from the reduced interest rate provided**
19 **by the lending institution is or will be passed on, in the form of re-**
20 **duced housing payments, to the tenants or to the holders of proprie-**
21 **tary leases in a limited equity cooperative;**

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

23 “(A) Uses the loan proceeds to finance construction, development, acqui-
24 sition or rehabilitation of housing consisting of a manufactured dwelling
25 park; and

26 “(B) Provides a written certification executed by the Housing and Com-
27 munity Services Department that the housing will continue to be operated
28 as a manufactured dwelling park during the period for which the tax credit
29 is allowed;

30 “(d) A qualified borrower who:

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

3 “(B) Provides a written certification executed by the Housing and Com-
4 munity Services Department that the housing preserved by the loan:

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

7 “(ii) Is the subject of a rent assistance contract with the United States
8 Department of Housing and Urban Development or the United States De-
9 partment of Agriculture that will be maintained by the qualified borrower;
10 or

11 “(e) A qualified borrower who:

12 “(A) Uses the loan proceeds to finance construction, development, acqui-
13 sition or rehabilitation of housing; and

14 “(B) Provides a written certification executed by the Housing and Com-
15 munity Services Department or the governmental party to the rent assistance
16 contract that the housing preserved by the loan:

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

19 “(ii) Is the subject of a rent assistance contract with the federal govern-
20 ment or with a state or local government that will be maintained by the
21 qualified borrower and that limits a tenant’s rent to no more than 30 percent
22 of their income.

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

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

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

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

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

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

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

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

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

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

25 “(10) For a qualified loan defined in subsection [(1)(j)(B)] **(1)(k)(B)** of this
26 section financed through the purchase of bonds, the interest of which is ex-
27 empt from federal taxation under section 103 of the Internal Revenue Code,
28 the amount of finance charge that would have been charged under subsection
29 (2)(b) of this section is determined by reference to the finance charge that
30 would have been charged if the federally tax exempt bonds had been issued

1 and the tax credit under this section did not apply.

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

8 “(12) Notwithstanding any other provision of law, a lending institution
9 that is a community development corporation organized under the Oregon
10 Nonprofit Corporation Law may transfer all or part of a tax credit allowed
11 under this section to one or more other lending institutions that are stock-
12 holders or members of the community development corporation or that oth-
13 erwise participate through the community development corporation in the
14 making of one or more qualified loans for which the tax credit under this
15 section is allowed.

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

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

24 “(a) A nonprofit corporation, manufactured dwelling park nonprofit co-
25 operative, state governmental entity, local unit of government as defined in
26 ORS 466.706 or housing authority; or

27 “(b) A nonprofit corporation or housing authority that has a controlling
28 interest in the real property that is financed by a qualified loan. A control-
29 ling interest includes a controlling interest in the general partner of a lim-
30 ited partnership that owns the real property.

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

5 “(16) The Housing and Community Services Department shall provide in-
6 formation to the Department of Revenue about all certifications executed
7 under this section, if required by ORS 315.058.

8 “(17) The Housing and Community Services Department and the Depart-
9 ment of Revenue may adopt rules to carry out the provisions of this section.

10 **“SECTION 3. The amendments to ORS 317.097 by section 2 of this**
11 **2023 Act apply to tax years beginning on or after January 1, 2024.**

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

15 **“Sec. 30.** The Housing and Community Services Department may not is-
16 sue a certificate under ORS 317.097 on or after January 1, [2026] **2032.**

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

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

23 **“SECTION 6.** ORS 316.792 is amended to read:

24 “316.792. (1) As used in this section:

25 “(a) ‘Armed Forces of the United States’ means all regular and reserve
26 components of the United States Army, Navy, Air Force, Marine Corps and
27 Coast Guard and other uniformed services under the orders of the President
28 of the United States.

29 “(b) ‘Military pay’ means pay for active duty, inactive duty, training and
30 reserve component duty, including state active duty, and any other compen-

1 sation, other than retirement pay or pension, paid by the Armed Forces of
2 the United States to a member of the Armed Forces of the United States.

3 “(c) ‘Reserve component duty’ includes duty performed as a member of the
4 reserve components that is not federal active duty.

5 “(d) ‘Reserve components’ includes all National Guard and reserve de-
6 partments of the Armed Forces of the United States.

7 “(e) ‘Uniformed services’ includes the commissioned corps of the National
8 Oceanic and Atmospheric Administration and the United States Public
9 Health Service.

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

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

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

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

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

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

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

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

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

30 “(3) The total amount subtracted under this section may not exceed the

1 taxpayer's total military pay included in federal taxable income for the tax
2 year.

3 **SECTION 7. The amendments to ORS 316.792 by section 6 of this**
4 **2023 Act apply to tax years beginning on or after January 1, 2021.**

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

9 **“Sec. 19.** ORS 315.675 applies to tax years beginning on or after January
10 1, 2002, and before January 1, [2026] **2028.**

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

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

16 **“(2)** The amendments to ORS 316.102 by section 49 of this 2019 Act apply
17 to tax years beginning on or after January 1, 2020, and before January 1,
18 [2026] **2028.**

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

23 **“Sec. 66.** ORS 315.622 applies to tax credit certifications issued by the
24 Office of Rural Health on or after January 1, 2006, and before January 1,
25 [2026] **2028.**

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

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

1 [2026] **2030.**

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

4 **“Sec. 5.** *[Sections 2 and 3 of this 2019 Act]* **ORS 315.650 and 315.653** apply
5 to tax years beginning on or after January 1, 2020, and before January 1,
6 [2026] **2030.**

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

9 **“Sec. 17.** (1) *[Sections 7 to 14 of this 2019 Act]* **ORS 315.591 to 315.603**
10 apply to tax years beginning on or after January 1, 2020, and before January
11 1, [2026] **2030.**

12 **“(2)** Except as provided in *[section 8 (5) of this 2019 Act]* **ORS 315.593**
13 **(5),** a credit may not be claimed under *[section 8 of this 2019 Act]* **ORS**
14 **315.593** for tax years beginning on or after January 1, [2026] **2030.**

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

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

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

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

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

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

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

4 “SECTION 17. This **2023 Act** takes effect on the **91st day after the**
5 **date on which the 2023 regular session of the Eighty-second Legislative**
6 **Assembly adjourns sine die.**”

7
