

HB 2071-5  
(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 314.772, 316.792, 317.097 and 318.031 and section 19,  
3 chapter 954, Oregon Laws 2001, section 66, chapter 832, Oregon Laws 2005,  
4 section 9, chapter 765, Oregon Laws 2007, sections 11, 21, 24, 27, 28, 30 and  
5 34, chapter 913, Oregon Laws 2009, and sections 5 and 17, chapter 579,  
6 Oregon Laws 2019; 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. Sections 18 to 22 of this 2023 Act are added to and**  
5 **made a part of ORS chapter 315.**

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

7 **“(1) ‘Affordability restriction’ has the meaning given that term in**  
8 **ORS 456.250.**

9 **“(2) ‘Identity of interest’ means a relationship in which a purchaser**  
10 **and seller are related by blood or marriage or are affiliated through a**  
11 **business relationship.**

12 **“(3) ‘Publicly supported housing’ has the meaning given that term**  
13 **in ORS 456.250.**

14 **“(4) ‘Qualifying sale’ means any sale of publicly supported housing**  
15 **to a purchaser that enters into a recorded affordability restriction**  
16 **agreement governing the use of the housing that:**

17 **“(a) Applies to publicly supported housing on or before the expira-**  
18 **tion of the right of first refusal under ORS 456.262 (3)(d); and**

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

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

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

29 **“SECTION 19. (1) A taxpayer is allowed a credit against the taxes**  
30 **otherwise due under ORS chapter 316 or, if the taxpayer is a corpo-**

1 ration, under ORS chapter 317 or 318 for a qualifying sale in Oregon  
2 of publicly supported housing during the tax year. The amount of the  
3 credit allowed under this section may not exceed:

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

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

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

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

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

15 “(3) The Department of Revenue may:

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

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

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

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

28 “(a) A nonresident is allowed the credit under this section in the  
29 proportion provided in ORS 316.117.

30 “(b) If a change in the status of a taxpayer from resident to non-

1 resident or from nonresident to resident occurs, the credit allowed by  
2 this section must be determined in a manner consistent with ORS  
3 316.117.

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

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

13 “(2) The application for a reservation under this section must be  
14 on a form prescribed by the Housing and Community Services De-  
15 partment and must provide:

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

18 “(b) The location of the publicly supported housing;

19 “(c) A description of the use to which the housing will be put fol-  
20 lowing the qualifying sale;

21 “(d) The number of affordable housing units that will be maintained  
22 within the housing following the qualifying sale and the projected du-  
23 ration, in years, of the availability of the units as affordable housing;

24 “(e) An appraisal of the housing conducted by an appraiser as de-  
25 fined in ORS 674.200;

26 “(f) The anticipated amount of credit to be reserved by the seller;

27 “(g) The calendar year in which the purchaser anticipates complet-  
28 ing the qualifying sale; and

29 “(h) Any other information as the Housing and Community Services  
30 Department may require.

1       **“(3) The Housing and Community Services Department may review**  
2 **applications for a reservation using any reasonable system of prior-**  
3 **itizing review established by the Housing and Community Services**  
4 **Department by rule.**

5       **“(4) Applications for reservations of a credit filed in compliance**  
6 **with this section may be approved by the Housing and Community**  
7 **Services Department only to the extent that the total amount of**  
8 **credits for all approved qualifying sales for the calendar year is equal**  
9 **to or less than the limitation in section 22 of this 2023 Act. The**  
10 **Housing and Community Services Department may deny an applica-**  
11 **tion, or may approve a reduced amount of credit, if the addition of the**  
12 **anticipated amount of credit to previously approved amounts of credits**  
13 **for the calendar year would exceed the limitation in section 22 of this**  
14 **2023 Act.**

15       **“(5) Upon approval of a reservation of a credit, and not later than**  
16 **January 15 of the year following the filing of the application, the**  
17 **Housing and Community Services Department shall issue a reservation**  
18 **to the purchaser. The reservation must state the approved amount of**  
19 **credit. The reservation may include conditions that must be met in**  
20 **order for a credit to be claimed by the seller under section 19 of this**  
21 **2023 Act.**

22       **“(6) The Housing and Community Services Department, following**  
23 **notification of the close of the qualifying sale, including the final**  
24 **purchase price, shall send to the seller a certification of the seller’s**  
25 **claim to the credit in an amount not to exceed the lesser of the**  
26 **amount reserved or the amount calculated under section 19 (1) of this**  
27 **2023 Act based on the final purchase price.**

28       **“(7) At the end of each calendar year, the Housing and Community**  
29 **Services Department shall send a list of the names, addresses and**  
30 **taxpayer identification numbers of sellers to whom a certification has**

1 been issued under subsection (6) of this section during the calendar  
2 year, along with approved amounts of credit for each qualifying sale,  
3 to the Department of Revenue.

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

7 “(9) The Housing and Community Services Department may estab-  
8 lish an application process for the registration and certification of  
9 credits under this section.

10 “(10) Notwithstanding that a certification has been issued to a seller  
11 under this section, the Department of Revenue may disallow, in whole  
12 or in part, a claim for credit upon the Department of Revenue’s de-  
13 termination that the seller is not entitled to the credit or is entitled  
14 only to a portion of the amount claimed under section 19 of this 2023  
15 Act.

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

18 **“SECTION 21.** (1) For any tax credit certification that is issued  
19 under section 20 of this 2023 Act, the Department of Revenue may by  
20 rule require that the Housing and Community Services Department  
21 provide information about the certification, including the name and  
22 taxpayer identification number of the taxpayer or other person re-  
23 ceiving certification, the date the certification was issued in its final  
24 form, the approved amount of credit and the first tax year for which  
25 the credit may be claimed.

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

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

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

8       **“SECTION 23. ORS 314.772, as amended by section 11, chapter 34, Oregon**  
9 **Laws 2022, and section 15, chapter 115, Oregon Laws 2022, is amended to**  
10 **read:**

11       **“314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits al-**  
12 **lowed or allowable to a C corporation for purposes of ORS chapter 317 or**  
13 **318 shall not be allowed to an S corporation. The business tax credits al-**  
14 **lowed or allowable for purposes of ORS chapter 316 shall be allowed or are**  
15 **allowable to the shareholders of the S corporation.**

16       **“(2) In determining the tax imposed under ORS chapter 316, as provided**  
17 **under ORS 314.763, on income of the shareholder of an S corporation, there**  
18 **shall be taken into account the shareholder’s pro rata share of business tax**  
19 **credit (or item thereof) that would be allowed to the corporation (but for**  
20 **subsection (1) of this section) or recapture or recovery thereof. The credit (or**  
21 **item thereof), recapture or recovery shall be passed through to shareholders**  
22 **in pro rata shares as determined in the manner prescribed under section**  
23 **1377(a) of the Internal Revenue Code.**

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

28       **“(4) If the shareholder is a nonresident and there is a requirement appli-**  
29 **cable for the business tax credit that in the case of a nonresident the credit**  
30 **be allowed in the proportion provided in ORS 316.117, then that provision**

1 shall apply to the nonresident shareholder.

2 “(5) As used in this section, ‘business tax credit’ means the following  
3 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish  
4 screening, by-pass devices, fishways), ORS 315.141 (biomass production for  
5 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
6 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent  
7 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-  
8 tributions for child care), ORS 315.237 (employee and dependent scholar-  
9 ships), ORS 315.271 (individual development accounts), ORS 315.304  
10 (pollution control facility), ORS 315.326 (renewable energy development con-  
11 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-  
12 portation projects), ORS 315.341 (renewable energy resource equipment  
13 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-  
14 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-  
15 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514  
16 (film production development contributions), ORS 315.523 (employee training  
17 programs), ORS 315.533 (low income community jobs initiative), ORS 315.593  
18 (short line railroads), ORS 315.640 (university venture development funds),  
19 ORS 315.643 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for  
20 Cultural Development Account contributions), ORS 317.097 (loans for af-  
21 fordable housing), ORS 317.124 (long term enterprise zone facilities), ORS  
22 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified re-  
23 search expenses) and ORS 317.154 (alternative qualified research expenses)  
24 and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle con-  
25 tributions), section 2, chapter 34, Oregon Laws 2022 (small forest option), and  
26 section 8, chapter 115, Oregon Laws 2022 (agricultural overtime pay), **and**  
27 **section 19 of this 2023 Act (affordable housing sales).**

28 **“SECTION 24.** ORS 318.031, as amended by section 12, chapter 34, Oregon  
29 Laws 2022, and section 16, chapter 115, Oregon Laws 2022, is amended to  
30 read:

1 “318.031. It being the intention of the Legislative Assembly that this  
2 chapter and ORS chapter 317 shall be administered as uniformly as possible  
3 (allowance being made for the difference in imposition of the taxes), ORS  
4 305.140 and 305.150, ORS chapter 314 and the following sections are incor-  
5 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,  
6 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,  
7 315.507, 315.523, 315.533, 315.593 and 315.643 and section 2, chapter 34, Oregon  
8 Laws 2022, and section 8, chapter 115, Oregon Laws 2022, **and section 19**  
9 **of this 2023 Act** (all only to the extent applicable to a corporation) and ORS  
10 chapter 317.

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

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