Senate Bill 500

Sponsored by Senator SMITH DB (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.** The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes a new tax credit for building affordable houses. (Flesch Readability Score: 64.9).

Allows a new income or corporate excise tax credit for a portion of the eligible costs of a newly constructed single-family dwelling that sells for a price that is affordable to a household with an annual income at or below 120 percent of the area median income.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to tax incentives for affordable housing; creating new provisions; amending ORS 314.772 and 318.031; and prescribing an effective date.

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

SECTION 1. Sections 2 to 4 of this 2025 Act are added to and made a part of ORS chapter 315.

SECTION 2. (1) As used in sections 2 to 4 of this 2025 Act:

(a) "Consumer Price Index for All Urban Consumers, West Region (All Items)" means 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.

(b)(A) "Eligible costs" means the costs of acquisition, finance costs, permit costs and construction costs with respect to eligible residential property that in total equal not more than $200 per square foot of the eligible residential property.

(B) The dollar amounts specified in subparagraph (A) of this paragraph shall be adjusted annually by multiplying the amounts by the percentage, if any, by which the monthly averaged Consumer Price Index for All Urban Consumers, West Region (All Items), for the 12 consecutive months ending on the immediately preceding December 31 exceeds the monthly averaged Consumer Price Index for All Urban Consumers, West Region (All Items), for the 12 consecutive months ending on the next preceding December 31.

(c) "Eligible residential property" means one or more newly constructed single-family dwelling units located in this state that are sold for a qualified price.

(d) "Qualified price" means a price that is affordable to a household with an annual income at or below 120 percent of the area median income.

(e) "Qualified purchaser" means an individual whose household has an annual income at or below 120 percent of the area median income.

(f) "Qualified reseller" means a qualified purchaser who engages in a transaction to resell the eligible residential property owned by the qualified purchaser.

(g) For purposes of earning a tax credit under this section, "taxpayer" includes pass-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

through and tax-exempt entities.

(2) A credit is allowed against the taxes otherwise due under ORS chapter 316, or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for eligible residential property for which a certificate of eligibility has been issued under section 3 of this 2025 Act.

(3) The credit shall be allowed for the first tax year of the taxpayer that begins after the taxpayer has closed on a contract of sale with a qualified purchaser who will occupy the eligible residential property as a single-family dwelling that is the qualified purchaser's primary residence.

(4) The credit shall be allowed in an amount equal to the lesser of:

(a) Fifty percent of the eligible costs incurred by the taxpayer with respect to the eligible residential property; or

(b) The tax liability of the taxpayer for the tax year in which the credit is allowed.

(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in the tax year described in subsection (3) of this section 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 any credit not used in the second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any succeeding tax year.

(6) The credit allowed under this section is not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or 318 for the tax year.

(7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any amount of credit allowed under this section.

(8)(a) A nonresident shall be 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 under this section shall be determined in a manner consistent with ORS 316.117.

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

(9)(a) At least 35 percent of the value of all credits allowed in a tax year under this section must be for eligible costs incurred for eligible residential property located in counties with a population of less than 125,000.

(b) The total credits allowed to all taxpayers in any tax year under this section may not exceed $5 million. A partial credit may be certified under section 3 of this 2025 Act in order to bring the total of all credits allowed to not more than $5 million.

(10)(a) Except as provided in paragraphs (b) and (c) of this subsection, a tax credit allowed under this section may not be sold or transferred.

(b) Tax credits allowed under this section that a partnership, limited liability company, S corporation or other pass-through entity is entitled to claim may be allocated to the partners, members or shareholders of the entity for their direct use in accordance with the provisions of any agreement among the partners, members or shareholders.

(c)(A) All or any portion of a tax credit allowed under this section that a nonprofit corporation, governmental entity or other tax-exempt entity is entitled to claim may be transferred to a taxpayer subject to tax under ORS chapter 316, 317 or 318.

(B) A tax credit that is transferable under this paragraph may be transferred on or before the date on which the return is due for the tax year in which the credit may first be claimed. After that date, no portion of a credit allowed under this section may be transferred.

(C) To transfer the tax credit, the taxpayer that earned and will transfer the credit and the transferee that will claim the credit shall, on or before the date prescribed in subparagraph (B) of this paragraph, jointly file a notice of tax credit transfer with the Department of Revenue. The notice must be given on a form prescribed by the department that contains all of the following:

(i) The name and address of the transferor and transferee;

(ii) The amount of the tax credit that is being transferred;

(iii) The amount of the tax credit, if any, that is being retained by the transferor; and

(iv) Any other information required by the department.

(D) The department shall adopt rules establishing procedures for the transfer of tax credits under this paragraph.

<u>SECTION 3.</u> (1) In order to receive a tax credit under section 2 of this 2025 Act, a taxpayer must submit to the Housing and Community Services Department on a form prescribed by the department a claim with respect to each eligible residential property for which a credit is claimed.

(2) The claim must contain:

(a) Evidence showing:

(A) That the property is eligible residential property;

(B) That the taxpayer submitting the claim has closed on a contract of sale with a qualified purchaser for the eligible residential property;

(C) That the taxpayer notified the qualified purchaser in writing of the provisions of section 4 of this 2025 Act before the contract of sale was executed and that the qualified purchaser signed the notice; and

(D) The eligible costs for the eligible residential property; and

(b) Any other information the department may require.

(3)(a) If the department determines that the eligible residential property does not meet all the requirements under this section and section 2 of this 2025 Act, the department shall deny the claim.

(b) If the department determines that the eligible residential property meets all the requirements under this section and section 2 of this 2025 Act, the department shall issue to the taxpayer a certificate of eligibility for the tax credit allowable under section 2 of this 2025 Act. The certificate shall state the approved amount of eligible costs for the eligible residential property.

(4) At the end of each calendar year, the Housing and Community Services Department shall send to the Department of Revenue a list of the names, addresses and taxpayer identification numbers of taxpayers to whom a certificate of eligibility has been issued under this section during the calendar year, along with approved amounts of eligible costs for each eligible residential property.

(5) Notwithstanding that a certificate of eligibility has been issued to a taxpayer under this section, the Department of Revenue may disallow, in whole or in part, a claim for credit under section 2 of this 2025 Act upon the department's determination that, under the provisions of section 2 of this 2025 Act, the taxpayer is not entitled to the credit or is entitled to only a portion of the amount claimed.

SECTION 4. (1) A qualified reseller may resell an eligible residential property only to a qualified purchaser.

(2) The qualified reseller may resell the eligible residential property only at or below the qualified price for which the qualified reseller purchased the eligible residential property, increased by three percent for each year that the qualified reseller has owned the eligible residential property.

(3)(a) Notwithstanding ORS 205.130, a county clerk may not record or cause to be recorded an instrument conveying or contracting to convey fee title to eligible residential property unless the instrument is accompanied by documentary evidence showing that the consideration for the transfer was not greater than the amount determined under subsection (2) of this section.

(b) Upon recording the instrument, the county clerk shall make a notation as a public record that the eligible residential property is subject to the provisions of this section.

(4) Subsections (1) to (3) of this section apply to an eligible residential property only for the period of 11 years beginning on the date on which the contract of sale with the first qualified purchaser to own the property closes.

(5) A qualified purchaser who purchases eligible residential property from a qualified reseller for a purchase price in excess of the amount determined under subsection (2) of this section may bring suit in the circuit court of the county in which the eligible residential property is located to recover the amount of the excess. The suit must be filed within two years after the date on which the contract of sale closes.

SECTION 5. ORS 314.772 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 315.124 (small forest option), ORS 315.133 (agricultural overtime

pay), 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 315.283 (affordable housing sales), 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 315.518 (semiconductors), 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)**, and section 2 of this 2025 Act (newly constructed single-family dwelling units)**.

SECTION 6. ORS 318.031 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 imposition 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, 315.124, 315.133, 315.141, 315.156, 315.176, 315.204, 315.208, 315.213, 315.283, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and 315.643 **and section 2 of this 2025 Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

SECTION 7. Sections 2 to 4 of this 2025 Act apply to tax years beginning on or after January 1, 2026, and before January 1, 2032.

SECTION 8. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.