

LC 944  
2013 Regular Session  
12/12/12  
(DLT/TSB/CMT/ps)

# D R A F T

## SUMMARY

Requires Housing and Community Services Department to adopt by rule certain criteria for assignment of energy performance scores for residential buildings.

Requires department to procure certain services related to energy performance scores. Requires person that intends to offer residential building for sale to disclose energy performance score. Requires department to make energy performance scores available in database accessible by public.

Modifies uses of moneys in Clean Energy Deployment Fund. Continuously appropriates half of moneys in fund to department for conducting energy audits.

Creates income tax credit for taxpayer using energy performance assessment services.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to energy use by residential buildings; creating new provisions; amending ORS 470.800; appropriating money; and prescribing an effective date.

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

**SECTION 1. (1) “Residential building” means a structure used, or planned for use, as fewer than five individual residential units.**

**(2) In order to allow prospective purchasers of residential property to assess the energy performance of residential buildings and to compare the energy performance with that of similar residential buildings, the Housing and Community Services Department, after consultation with the State Department of Energy, shall adopt rules that specify criteria for the assignment of energy performance scores for residen-**

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.

1 **tial buildings.**

2 **(3) In adopting the rules specified in subsection (2) of this section,**  
3 **the department shall consider, but not be limited to considering, the**  
4 **following:**

5 **(a) Estimated cost per residential building to establish energy per-**  
6 **formance scores;**

7 **(b) Reliability of energy performance scores in helping to achieve**  
8 **overall energy efficiency goals; and**

9 **(c) Simplicity and ease of understanding of energy performance**  
10 **scores.**

11 **SECTION 2. (1) The Housing and Community Services Department**  
12 **shall procure from one or more private contractors the services spec-**  
13 **ified in subsection (2) of this section. Except as provided in subsection**  
14 **(2)(a)(A) of this section, the department shall compensate the con-**  
15 **tractor for the services from moneys available in the Clean Energy**  
16 **Deployment Fund established in ORS 470.800 and may not charge**  
17 **owners or prospective purchasers of residential buildings for the ser-**  
18 **vices or for any costs related to providing the services.**

19 **(2)(a) Services the department shall procure under subsection (1)**  
20 **of this section and provide to owners of residential buildings include:**

21 **(A) Conducting an energy audit and assigning an energy perform-**  
22 **ance score to each residential building that requires an energy per-**  
23 **formance score under section 3 of this 2013 Act. The department may**  
24 **charge the owner of the residential building for the cost of conducting**  
25 **the energy audit and assigning the energy performance score.**

26 **(B) Conducting an educational program to make the owners of**  
27 **residential buildings aware of the owners' obligation to obtain and**  
28 **disclose energy performance scores for residential buildings that the**  
29 **owners offer for sale.**

30 **(C) Advising owners of residential buildings about options for im-**  
31 **proving the energy performance scores of the residential buildings**

1 with appropriate energy conservation and energy efficiency measures  
2 and about options available for financing the energy improvements.

3 (b) Services the department shall procure under subsection (1) of  
4 this section and provide to prospective purchasers of residential  
5 buildings include:

6 (A) Estimating the costs of and providing advice concerning fi-  
7 nancing options that are available for energy efficiency and energy  
8 conservation improvements for the residential building the prospective  
9 purchaser is considering for purchase, including energy efficiency  
10 mortgages and other financing options.

11 (B) Evaluating bids from building contractors for work on energy  
12 efficiency and energy conservation improvements to the residential  
13 building the prospective purchaser is considering for purchase, ensur-  
14 ing that the bids conform with the requirements of the financing op-  
15 tion the prospective purchaser has chosen and advising the prospective  
16 purchaser as to which set of bids for the energy efficiency and energy  
17 conservation improvement work best suits the prospective purchaser's  
18 needs.

19 (C) Working with the lender that is providing the prospective pur-  
20 chaser with the financing for acquiring the residential building to co-  
21 ordinate the financing for the energy efficiency and energy  
22 conservation improvements together with the financing for the acqui-  
23 sition of the residential building. The department, at the purchaser's  
24 request, may have the department's contractor complete all necessary  
25 documentation.

26 (3) The department shall adopt rules to specify the content of,  
27 standards for and any other necessary requirements for the services  
28 a contractor provides under subsection (2) of this section.

29 (4) The department shall make the energy performance scores de-  
30 scribed in this section available in a searchable database that is easily  
31 accessible by the public.

**SECTION 3. (1) A person that intends to offer a residential building for sale shall first obtain from the Housing and Community Services Department an energy performance score for the residential building in accordance with section 2 of this 2013 Act and, when offering the residential building for sale, shall disclose in the real estate listing for the residential building the energy performance score and the estimated cost of energy utility use for the residential building.**

**(2)(a) The Housing and Community Services Department may impose on a person that violates subsection (1) of this section a civil penalty in an amount that does not exceed \$250. The department shall impose the civil penalty in accordance with ORS 183.745.**

**(b) All penalties recovered by the department for violations of subsection (1) of this section shall be paid into the Clean Energy Deployment Fund established in ORS 470.800.**

**SECTION 4.** ORS 470.800 is amended to read:

**470.800. (1) The Clean Energy Deployment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Clean Energy Deployment Fund shall be credited to the Clean Energy Deployment Fund. Except for the moneys in the Renewable Energy Development Subaccount established in ORS 470.805, half of the moneys in the fund are continuously appropriated to the State Department of Energy for use as provided in ORS 470.810 and half of the moneys are continuously appropriated to the Housing and Community Services Department for use as provided in section 2 of this 2013 Act.**

**(2) The [department] State Department of Energy and the Housing and Community Services Department may accept grants, donations, contributions or gifts from any source for deposit in the Clean Energy Deployment Fund.**

**(3) The Clean Energy Deployment Fund consists of:**

**(a) Moneys accepted by the State Department of Energy and the Housing and Community Services Department pursuant to subsection**

(2) of this section.

(b) Penalties imposed under section 3 of this 2013 Act.

**SECTION 5.** Section 6 of this 2013 Act is added to and made a part of ORS chapter 315.

**SECTION 6.** (1) As used in this section, “residential building” has the meaning given that term in section 1 of this 2013 Act.

(2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer who uses the services specified in section 2 of this 2013 Act in a real estate transaction involving a residential building during the tax year.

(3) The amount of the credit allowed under this section shall be as follows:

(a) \$\_\_\_\_\_ per transaction for a purchaser of real property.

(b) \$\_\_\_\_\_ per transaction for a seller of real property.

(4) Prior to claiming the credit allowed under this section, a taxpayer is required to receive written certification of eligibility from the Housing and Community Services Department.

(5) The credit allowed under this section may not exceed the tax liability of the taxpayer.

(6) A nonresident shall be allowed the credit under this section. The credit shall be computed in the same manner and be subject to the same limitations as the credit granted to a resident. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(7) If a change in the taxable year of the 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 by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(8) If a change in the status of a taxpayer from resident to non-resident or from nonresident to resident occurs, the credit allowed by

3       **(9) The Housing and Community Services Department shall adopt**  
4 **rules for the purposes of this section, including policies and procedures**  
5 **for certifying taxpayers as eligible for the credit allowed under this**  
6 **section as provided in subsection (4) of this section.**

7        **SECTION 7. This 2013 Act takes effect on the 91st day after the date**  
8        **on which the 2013 regular session of the Seventy-seventh Legislative**  
9        **Assembly adjourns sine die.**

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