

Senate Bill 1

Sponsored by Senators COURTNEY, THOMSEN (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**.

Creates income tax credit for operation costs of housing for agricultural workers. Provides for refundability of credit and for transferability of credit earned by tax-exempt entity. Imposes limitation on total credits allowed to all owners of housing per tax year.

Applies to tax years beginning on or after January 1, 2018, and before January 1, 2024.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax credits for housing agricultural workers; creating new provisions; amending ORS
3 314.752 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 to 4 of this 2017 Act are added to and made a part of ORS chapter**
6 **315.**

7 **SECTION 2. (1) As used in this section:**

8 (a) "Agricultural worker" has the meaning given that term in ORS 315.163.

9 (b) "Community-based housing" means housing that is operated by a nonprofit organiza-
10 tion or by a housing authority created under ORS 456.055 to 456.235, of which a majority of
11 the occupants are agricultural workers.

12 (c) "Eligible costs" means operation costs that have been certified by the Housing and
13 Community Services Department as eligible for the tax credit under this section.

14 (d) "Eligible housing" means farm employment-related housing or community-based
15 housing.

16 (e) "Farm employment-related housing" means agriculture workforce housing as defined
17 in ORS 315.163 that is located on the owner's property and that is offered in connection with
18 an agricultural worker's employment.

19 (f)(A) "Operation costs" includes costs of insurance, property management, repair and
20 maintenance, resident services and utilities necessary to operate eligible housing.

21 (B) "Operation costs" does not include any expense that may be depreciated or amortized
22 as a capital cost.

23 (g) "Utilities" includes electricity, gas, oil and water and sewer service.

24 (2) A credit against taxes that are otherwise due under ORS chapter 316 or, if the tax-
25 payer is a corporation, under ORS chapter 317 or 318 is allowed to a taxpayer for operation
26 costs of eligible housing incurred by an owner of eligible housing during the tax year. The
27 credit shall equal 50 percent of eligible costs incurred during the tax year, but shall be re-
28 duced by any amount of federal or other governmental or private grants or similar funding
29 that the owner receives to compensate for the payment of eligible costs incurred during the
30 tax year.

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 (3) To be eligible for a credit under this section, the eligible housing must:

2 (a) Comply with all occupational safety or health laws, rules, regulations and standards;

3 (b) Upon occupancy and if an indorsement is required, be operated by a person who holds
4 a valid indorsement as a farmworker camp operator under ORS 658.730;

5 (c) If farm employment-related housing, on or before 90 days after the first day of the
6 tax year, or 90 days after the housing is occupied, whichever is later, be registered as a
7 farmworker camp with the Department of Consumer and Business Services under ORS
8 658.750; and

9 (d) If community-based housing, meet all certification requirements for agricultural
10 workers established by the Housing and Community Services Department.

11 (4) The credit allowed under this section:

12 (a) May not be claimed for a unit of housing that is occupied during the tax year by
13 temporary H-2A workers admitted to this country under 8 U.S.C. 1188.

14 (b) May not be claimed for any expense that is attributable to payments for utilities if
15 the owner or operator of the eligible housing requires occupants of the eligible housing to
16 pay for utilities.

17 (c) May be claimed for eligible costs of both farm employment-related housing and
18 community-based housing.

19 (5) An owner must obtain a written certification of eligible costs from the Housing and
20 Community Services Department prior to claiming the credit allowed under this section.

21 (6) If the amount allowable as a credit under this section, when added to the sum of the
22 amounts allowable as a payment of tax under ORS 314.505 to 314.525, 316.187 and 316.583,
23 other payments of tax and other refundable credit amounts, exceeds the taxes imposed by
24 ORS chapters 314 to 318 (reduced by any nonrefundable credits allowed for the tax year), the
25 excess shall be treated as an overpayment of tax and shall be refunded or applied in the same
26 manner as other tax overpayments.

27 (7) The credit allowed under this section shall be in addition to and not in lieu of any
28 depreciation or amortization deduction to which the taxpayer otherwise may be entitled with
29 respect to the eligible housing, and the credit does not affect the computation of basis for
30 the property.

31 (8) A nonresident shall be allowed the credit under this section in the same manner and
32 subject to the same limitations as a resident. However, the credit shall be prorated using the
33 proportion provided in ORS 316.117.

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

38 (10) The Housing and Community Services Department may by rule allocate annual
39 available credit amounts available under section 4 of this 2017 Act between farm
40 employment-related housing and community-based housing.

41 (11) The Housing and Community Services Department shall adopt rules for the purposes
42 of this section, including rules establishing policies and procedures for providing written
43 certification to entities eligible for the credit allowed under this section, as required by
44 subsection (5) of this section.

45 **SECTION 3.** (1) A tax-exempt entity that has obtained a tax credit under section 2 of this

1 2017 Act may transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or
2 318.

3 (2) A tax credit allowed under section 2 of this 2017 Act may be transferred within two
4 calendar years after the close of the tax year in which the credit may be claimed. After that
5 date, no portion of a credit allowed under section 2 of this 2017 Act may be transferred.

6 (3) To transfer the tax credit, the entity earning the credit and the taxpayer that will
7 claim the credit shall, on or before the date prescribed by subsection (2) of this section,
8 jointly file a notice of tax credit transfer with the Department of Revenue. The notice must
9 be given on a form prescribed by the department that contains all of the following:

10 (a) The name and address of the transferor and transferee;

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

12 (c) The amount of the tax credit that is being retained by the transferor; and

13 (d) Any other information required by the department.

14 (4) The Housing and Community Services Department may establish by rule a minimum
15 discounted value of a tax credit under this section.

16 (5) The Department of Revenue, in consultation with the Housing and Community Ser-
17 vices Department, may by rule establish procedures for the transfer of tax credits provided
18 by this section.

19 **SECTION 4.** The total amount of tax credits allowed under section 2 of this 2017 Act to
20 all owners of housing may not exceed \$_____ million for any tax year.

21 **SECTION 5.** ORS 314.752 is amended to read:

22 314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits allowed or allowable to a
23 C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The
24 business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are
25 allowable to the shareholders of the S corporation.

26 (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.734, on
27 income of the shareholder of an S corporation, there shall be taken into account the shareholder's
28 pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but
29 for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-
30 capture or recovery shall be passed through to shareholders in pro rata shares as determined in the
31 manner prescribed under section 1377(a) of the Internal Revenue Code.

32 (3) The character of any item included in a shareholder's pro rata share under subsection (2)
33 of this section shall be determined as if such item were realized directly from the source from which
34 realized by the corporation, or incurred in the same manner as incurred by the corporation.

35 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax
36 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS
37 316.117, then that provision shall apply to the nonresident shareholder.

38 (5) As used in this section, "business tax credit" means a tax credit granted to personal income
39 taxpayers to encourage certain investment, to create employment, economic opportunity or incentive
40 or for charitable, educational, scientific, literary or public purposes that is listed under this sub-
41 section as a business tax credit or is designated as a business tax credit by law or by the Depart-
42 ment of Revenue by rule and includes but is not limited to the following credits: ORS 285C.309
43 (tribal taxes on reservation enterprise zones and reservation partnership zones), ORS 315.104 (fore-
44 station and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141
45 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture

1 workforce housing), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care facili-
2 ties), ORS 315.213 (contributions for child care), ORS 315.304 (pollution control facility), ORS 315.326
3 (renewable energy development contributions), ORS 315.331 (energy conservation projects), ORS
4 315.336 (transportation projects), ORS 315.341 (renewable energy resource equipment manufacturing
5 facilities), ORS 315.354 and 469B.151 (energy conservation facilities), ORS 315.507 (electronic com-
6 merce) and ORS 315.533 (low income community jobs initiative) **and section 2 of this 2017 Act**
7 **(housing for agricultural workers).**

8 **SECTION 6.** ORS 318.031 is amended to read:

9 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter
10 317 shall be administered as uniformly as possible (allowance being made for the difference in im-
11 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-
12 corporated into and made a part of this chapter: ORS 285C.309, 315.104, 315.141, 315.156, 315.204,
13 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.507 and 315.533 **and section 2 of this 2017**
14 **Act** (all only to the extent applicable to a corporation) and ORS chapter 317.

15 **SECTION 7.** Sections 2 to 4 of this 2017 Act and the amendments to ORS 314.752 and
16 318.031 by sections 5 and 6 of this 2017 Act apply to tax years beginning on or after January
17 1, 2018, and before January 1, 2024.

18 **SECTION 8.** This 2017 Act takes effect on the 91st day after the date on which the 2017
19 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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