

Requested by HOUSE COMMITTEE ON REVENUE

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2286**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of  
2 the line and delete lines 3 through 5 and insert “ORS 285C.650, 285C.656,  
3 315.053, 315.138, 315.141, 315.144, 315.164, 315.169, 315.521, 315.622, 315.624,  
4 317.097, 329A.706, 348.621, 442.485, 458.690, 469B.106, 469B.118, 469B.276,  
5 469B.291, 469B.300, 469B.323, 469B.332, 469B.341 and 469B.991; repealing sec-  
6 tion 15, chapter 29, Oregon Laws 2016; and prescribing an effective date.”.

7 Delete lines 7 through 27 and delete pages 2 through 27 and insert:  
8

9 **“ADMINISTRATION OF TAX CREDIT PROVISIONS**

10

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

13 **“SECTION 2. (1) Transfer of any transferable tax credit that is al-**  
14 **lowed under this chapter or ORS chapter 316 or 317 and that is certified**  
15 **on or after January 1, 2018, is conditioned upon compliance with this**  
16 **section and ORS 315.052 and 315.053.**

17 **“(2) The Department of Revenue may require that the person that**  
18 **has earned the credit and the taxpayer that intends to claim the credit**  
19 **jointly file a notice of tax credit transfer with the department within**  
20 **30 days of the transfer of the credit. The notice shall be given on a**  
21 **form prescribed by the department that contains:**

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

2       “(b) The taxpayer identification number of the transferor and of the  
3 transferee;

4       “(c) The dates on which the person earning the credit received  
5 certifications for the credit;

6       “(d) The amount of the credit that is certified, the amount that is  
7 being transferred and the amount that is being retained by the  
8 transferor; and

9       “(e) Any other information required by the department.

10       “(3)(a) If a tax credit must be claimed over multiple tax years, a  
11 transferor may separately transfer the entirety of that portion corre-  
12 sponding to each tax year, subject to subsection (4) of this subsection.

13       “(b) Any amount of credit that would be allowed due only to a  
14 carryforward provision may not be transferred.

15       “(4) Any transfer of a tax credit or a portion of a tax credit must  
16 be completed no later than the earliest of the following dates in re-  
17 lation to the tax return on which it is claimed:

18       “(a) The original due date of the transferor’s return;

19       “(b) The date on which the transferor’s return is actually filed;

20       “(c) The original due date of the transferee’s return; or

21       “(d) The date on which the transferee’s return is actually filed.

22       “(5) The transferee shall claim the credit in accordance with the  
23 credit provisions for the tax years in which the credit is allowed.

24       “SECTION 3. (1) For any tax credit that is allowed under this  
25 chapter or ORS chapter 316 or 317 and for which certification, deter-  
26 mination of eligibility or other approval from an agency other than the  
27 Department of Revenue is required and was issued on or after January  
28 1, 2016, the department may by rule require that the other agency  
29 provide information about the certification, determination of eligibil-  
30 ity or other approval, including the name and taxpayer identification

1 number of the taxpayer or other person receiving approval, the date  
2 the approval was issued in its final form, the approved amount of  
3 credit and the first tax year for which the credit may be claimed.

4 “(2) A pass-through entity that has received approval shall provide  
5 the information described in subsection (1) of this section to the de-  
6 partment within two months after the close of the tax year in which  
7 the approval was issued.

8 “(3) The department shall prescribe by rule the manner and the  
9 timing of submission of the information to the department.

10 **“SECTION 4.** (1) Under the procedures for a contested case under  
11 ORS chapter 183, the director of the agency responsible for certifying  
12 or otherwise determining eligibility or granting approval for a tax  
13 credit allowed under this chapter or ORS chapter 316 or 317 may order  
14 the suspension or revocation of the tax credit approval if the director  
15 finds that:

16 “(a) The approval was obtained by fraud or misrepresentation; or

17 “(b) The approval was obtained by mistake or miscalculation.

18 “(2) As soon as an order of revocation under this section becomes  
19 final, the director shall notify the Department of Revenue and the  
20 person that received the tax credit certification, or other approval, of  
21 the order of revocation. Upon notification, the Department of Revenue  
22 immediately shall proceed to collect:

23 “(a) If no portion of a credit has been transferred, those taxes not  
24 paid by the holder of the certificate or other approval as a result of  
25 the tax credits provided to the holder under the revoked approval,  
26 from the holder or a successor in interest to the business interests of  
27 the holder. All tax credits provided to the holder and attributable to  
28 the fraudulently or mistakenly obtained approval or portion of the  
29 approval shall be forfeited.

30 “(b) If all of a credit has been transferred, an amount equal to the

1 amount of the tax credits allowable to the transferee under the re-  
2 voked approval, from the transferor.

3 “(c) If a portion of a tax credit has been transferred, those taxes  
4 not paid by the transferor as a result of the tax credits provided to the  
5 transferor pursuant to the revoked approval, from the transferor or a  
6 successor in interest to the business interests of the transferor, and  
7 an amount equal to the amount of the tax credits allowable to the  
8 transferee pursuant to the revoked approval, from the transferor. All  
9 tax credits provided to the transferor and attributable to the fraudu-  
10 lently or mistakenly obtained approval or portion thereof shall be  
11 forfeited.

12 “(3)(a) The Department of Revenue shall have the benefit of all laws  
13 of the state pertaining to the collection of income and excise taxes and  
14 may proceed to collect the amounts described in subsection (2) of this  
15 section from the person that obtained approval or a successor in in-  
16 terest to the business interests of that person. An assessment of tax  
17 is not necessary and the collection of taxes described in this subsection  
18 is not precluded by any statute of limitations.

19 “(b) For purposes of this subsection, a lender, bankruptcy trustee  
20 or other person that acquires an interest through bankruptcy or  
21 through foreclosure of a security interest is not considered to be a  
22 successor in interest to the business interests of the person that ob-  
23 tained approval.

24 “(4) Interest under this section shall accrue at the rate established  
25 in ORS 305.220 beginning the day after the due date of the return on  
26 which the credit may first be claimed.

27 “(5) The Department of Revenue may collect amounts owed under  
28 this section by a partnership from the partnership.

29 “SECTION 5. ORS 315.053 is amended to read:

30 “315.053. An income tax credit allowed under [*ORS 315.141, 315.331,*

1 315.336, 315.341 or 315.354 or section 12, chapter 855, Oregon Laws 2007,] **this**  
2 **chapter or ORS chapter 316 or 317 that is transferable** may be trans-  
3 ferred or sold only to one or more of the following:

- 4 “(1) A C corporation.  
5 “(2) An S corporation.  
6 “(3) A personal income taxpayer.

7

8 **“TRANSFERABLE TAX CREDIT PROVISIONS**

9

10 **“SECTION 6.** ORS 315.141 is amended to read:

11 “315.141. (1) As used in this section:

12 “(a) ‘Agricultural producer’ means a person that produces biomass in  
13 Oregon that is used, in Oregon, as biofuel or to produce biofuel.

14 “(b) ‘Biofuel’ means liquid, gaseous or solid fuels, derived from biomass,  
15 that have been converted into a processed fuel ready for use as energy by a  
16 biofuel producer’s customers or for direct biomass energy use at the biofuel  
17 producer’s site.

18 “(c) ‘Biofuel producer’ means a person that through activities in Oregon:

19 “(A) Alters the physical makeup of biomass to convert it into biofuel;

20 “(B) Changes one biofuel into another type of biofuel; or

21 “(C) Uses biomass in Oregon to produce energy.

22 “(d) ‘Biomass’ means organic matter that is available on a renewable or  
23 recurring basis and that is derived from:

24 “(A) Forest or rangeland woody debris from harvesting or thinning con-  
25 ducted to improve forest or rangeland ecological health and reduce unchar-  
26 acteristic stand replacing wildfire risk;

27 “(B) Wood material from hardwood timber described in ORS 321.267 (3);

28 “(C) Agricultural residues;

29 “(D) Offal and tallow from animal rendering;

30 “(E) Food wastes collected as provided under ORS chapter 459 or 459A;

1 “(F) Wood debris collected as provided under ORS chapter 459 or 459A;  
2 “(G) Wastewater solids; or  
3 “(H) Crops grown solely to be used for energy.  
4 “(e) ‘Biomass’ does not mean wood that has been treated with creosote,  
5 pentachlorophenol, inorganic arsenic or other inorganic chemical compounds  
6 or waste, other than matter described in paragraph (d) of this subsection.  
7 “(f) ‘Biomass collector’ means a person that collects biomass in Oregon  
8 to be used, in Oregon, as biofuel or to produce biofuel.  
9 “(g) ‘Canola’ means plants of the genus Brassica:  
10 “(A) In which seeds having a high oil content are the primary econom-  
11 ically valuable product; and  
12 “(B) That have a high erucic acid content suitable for industrial uses or  
13 a low erucic acid content suitable for edible oils.  
14 “(h) ‘Oilseed processor’ means a person that receives agricultural oilseeds  
15 and separates them into meal and oil by mechanical or chemical means.  
16 “(i) ‘Willamette Valley’ means Clackamas, Linn, Marion, Multnomah,  
17 Polk, Washington and Yamhill Counties and the portion of Benton and Lane  
18 Counties lying east of the summit of the Coast Range.  
19 “(2) The Director of the State Department of Energy may adopt rules to  
20 define criteria, only as the criteria apply to organic biomass, to determine  
21 additional characteristics of biomass for purposes of this section.  
22 “(3)(a) An agricultural producer or biomass collector shall be allowed a  
23 credit against the taxes that would otherwise be due under ORS chapter 316  
24 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:  
25 “(A) The production of biomass in Oregon that is used, in Oregon, as  
26 biofuel or to produce biofuel; or  
27 “(B) The collection of biomass in Oregon that is used, in Oregon, as  
28 biofuel or to produce biofuel.  
29 “(b) A credit under this section may be claimed in the tax year in which  
30 the credit is certified under subsection (5) of this section.

1 “(c) A taxpayer may be allowed a credit under this section for more than  
2 one of the roles defined in subsection (1) of this section, but a biofuel pro-  
3 ducer that is not also an agricultural producer or a biomass collector may  
4 not claim a credit under this section.

5 “(d) A credit under this section may be claimed only once for each unit  
6 of biomass.

7 “(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

8 “(A) Is not allowed for canola grown, collected or produced in the  
9 Willamette Valley; and

10 “(B) Is not allowed for grain corn, but a tax credit shall be allowed for  
11 other corn material.

12 “(4) The amount of the credit shall equal the amount certified under  
13 subsection (5) of this section.

14 “(5)(a) The State Department of Energy may establish by rule procedures  
15 and criteria for determining the amount of the tax credit to be certified un-  
16 der this section, consistent with ORS 469B.403. The department shall provide  
17 written certification to taxpayers that are eligible to claim the credit under  
18 this section.

19 “(b) The State Department of Energy may charge and collect a fee from  
20 taxpayers for certification of credits under this section. The fee may not ex-  
21 ceed the cost to the department of determining the amount of certified cost.

22 “[*(c) The State Department of Energy shall provide to the Department of*  
23 *Revenue a list, by tax year, of taxpayers for which a credit is certified under*  
24 *this section, upon request of the Department of Revenue.*]

25 “(6) The amount of the credit claimed under this section for any tax year  
26 may not exceed the tax liability of the taxpayer.

27 “(7) Each agricultural producer or biomass collector shall maintain the  
28 written documentation of the amount certified for tax credit under this sec-  
29 tion in its records for a period of at least five years after the tax year in  
30 which the credit is claimed and provide the written documentation to the

1 Department of Revenue upon request.

2 “(8) The credit shall be claimed on a form prescribed by the Department  
3 of Revenue that contains the information required by the department.

4 “(9) Any tax credit otherwise allowable under this section that is not used  
5 by the taxpayer in a particular tax year may be carried forward and offset  
6 against the taxpayer’s tax liability for the next succeeding tax year. Any  
7 credit remaining unused in the next succeeding tax year may be carried  
8 forward and used in the second succeeding tax year, and likewise any credit  
9 not used in that second succeeding tax year may be carried forward and used  
10 in the third succeeding tax year, and any credit not used in that third suc-  
11 ceeding tax year may be carried forward and used in the fourth succeeding  
12 tax year, but may not be carried forward for any tax year thereafter.

13 “(10) In the case of a credit allowed under this section:

14 “(a) A nonresident shall be allowed the credit under this section in the  
15 proportion provided in ORS 316.117.

16 “(b) If a change in the status of the taxpayer from resident to nonresident  
17 or from nonresident to resident occurs, the credit allowed by this section  
18 shall be determined in a manner consistent with ORS 316.117.

19 “(c) If a change in the [*taxable*] **tax** year of the taxpayer occurs as de-  
20 scribed in ORS 314.085, or if the department terminates the taxpayer’s [*tax-*  
21 *able*] **tax** year under ORS 314.440, the credit allowed under this section shall  
22 be prorated or computed in a manner consistent with ORS 314.085.

23 “(11) **The State Department of Energy shall provide information to**  
24 **the Department of Revenue about all certifications issued under this**  
25 **section, if required by section 3 of this 2017 Act.**

26 “(12) **The Director of the State Department of Energy may order the**  
27 **suspension or revocation of a certification issued under this section,**  
28 **as provided in section 4 of this 2017 Act.**

29 “**SECTION 7.** ORS 315.144 is amended to read:

30 “315.144. (1) A person that has [*obtained*] **earned** a tax credit under ORS



1 315.141 may transfer the credit to a taxpayer subject to tax under ORS  
2 chapter 316, 317 or 318. **The transfer must comply with section 2 of this**  
3 **2017 Act.**

4 *“(2) A tax credit allowed under ORS 315.141 may be transferred on or*  
5 *before the date on which the return is due for the tax year in which the credit*  
6 *may first be claimed. After that date, no portion of a credit allowed under*  
7 *ORS 315.141 may be transferred.]*

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

13 *“(a) The name and address of the transferor and transferee;]*

14 *“(b) The amount of the tax credit that is being transferred;]*

15 *“(c) The amount of the tax credit that is being retained by the transferor;*  
16 *and]*

17 *“(d) Any other information required by the department.]*

18 *“(4) (2) The State Department of Energy may establish by rule a mini-*  
19 *imum discounted value of a tax credit under this section.*

20 *“(5) The Department of Revenue, in consultation with the State Depart-*  
21 *ment of Energy, may by rule establish procedures for the transfer of tax credits*  
22 *provided by this section.]*

23 **“SECTION 8.** ORS 315.164 is amended to read:

24 **“315.164. (1) A taxpayer who is the owner or operator of agriculture**  
25 **workforce housing is allowed a credit against the taxes otherwise due under**  
26 **ORS chapter 316, if the taxpayer is a resident individual, or against the taxes**  
27 **otherwise due under ORS chapter 317, if the taxpayer is a corporation. The**  
28 **total amount of the credit shall be equal to 50 percent of the eligible costs**  
29 **actually paid or incurred by the taxpayer to complete an agriculture**  
30 **workforce housing project, to the extent the eligible costs actually paid or**

1 incurred by the taxpayer do not exceed the estimate of eligible costs ap-  
2 proved by the Housing and Community Services Department under ORS  
3 315.167.

4 “(2) A taxpayer who is otherwise eligible to claim a credit under this  
5 section may elect to transfer all or a portion of the credit to a contributor  
6 in the manner provided in ORS 315.169.

7 “(3)(a) The credit allowed under this section may be taken for the tax  
8 year in which the agriculture workforce housing project is completed or in  
9 any of the nine tax years succeeding the tax year in which the project is  
10 completed.

11 “(b) The credit allowed in any one tax year may not exceed 20 percent  
12 of the amount determined under subsection (1) of this section.

13 “(4)(a) To claim a credit under this section, a taxpayer must show in each  
14 year following the completion of an agriculture workforce housing project  
15 that the housing continues to be operated as agriculture workforce housing.

16 “(b) A taxpayer need not make the showing required in paragraph (a) of  
17 this subsection if the Housing and Community Services Department waives  
18 the requirement after the taxpayer has successfully met the requirement for  
19 the first five years after completion of the agriculture workforce housing  
20 project.

21 “(c) The Housing and Community Services Department shall determine  
22 by rule the factors necessary to grant a waiver. [*Such*] **These** factors may  
23 include a documented decline in a particular area for agriculture workforce  
24 housing.

25 “(5) The credit shall apply only to an agriculture workforce housing  
26 project that is located within this state and physically begun on or after  
27 January 1, 1990.

28 “(6)(a) A credit may not be allowed under this section unless the taxpayer  
29 claiming credit under this section:

30 “(A) Obtains a letter of credit approval from the Housing and Community

1 Services Department pursuant to ORS 315.167; and

2 “(B) Files with the [*Department of Revenue*] **Housing and Community**  
3 **Services Department** an annual certification providing that all occupied  
4 units for which credit is being claimed are occupied by agricultural workers,  
5 including agricultural workers who are retired or disabled, and their imme-  
6 diate families.

7 “(b) The certification described under this subsection shall be made on the  
8 form and in the time and manner prescribed by the [*Department of Revenue*]  
9 **Housing and Community Services Department**.

10 “(7) Except as provided under subsection (8) of this section, the credit  
11 allowed in any one year may not exceed the tax liability of the taxpayer.

12 “(8) Any tax credit otherwise allowable under this section that is not used  
13 by the taxpayer in a particular tax year may be carried forward and offset  
14 against the taxpayer’s tax liability for the next succeeding tax year. Any  
15 credit remaining unused in the next succeeding tax year may be carried  
16 forward and used in the second succeeding tax year, and likewise any credit  
17 not used in that second succeeding tax year may be carried forward and used  
18 in the third succeeding tax year, and any credit not used in that third suc-  
19 ceeding tax year may be carried forward and used in the fourth succeeding  
20 tax year, and any credit not used in that fourth succeeding tax year may be  
21 carried forward and used in the fifth succeeding tax year, and any credit not  
22 used in that fifth succeeding tax year may be carried forward and used in  
23 the sixth succeeding tax year, and any credit not used in that sixth suc-  
24 ceeding tax year may be carried forward and used in the seventh succeeding  
25 tax year, and any credit not used in that seventh succeeding tax year may  
26 be carried forward and used in the eighth succeeding tax year, and any credit  
27 not used in that eighth succeeding tax year may be carried forward and used  
28 in the ninth succeeding tax year, but may not be carried forward for any tax  
29 year thereafter.

30 “(9)(a) The credit provided by this section is not in lieu of any depreci-

1 ation or amortization deduction for the agriculture workforce housing  
2 project to which the taxpayer otherwise may be entitled under ORS chapter  
3 316 or 317 for the year.

4 “(b) The taxpayer’s adjusted basis for determining gain or loss may not  
5 be further decreased by any tax credits allowed under this section.

6 “(10) For a taxpayer to receive a credit under this section, the agriculture  
7 workforce housing must:

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

10 “(b) If registration is required, be registered as a farmworker camp with  
11 the Department of Consumer and Business Services under ORS 658.750;

12 “(c) Upon occupancy and if an indorsement is required, be operated by a  
13 person who holds a valid indorsement as a farmworker camp operator under  
14 ORS 658.730; and

15 “(d) Continue to be operated as agriculture workforce housing for a pe-  
16 riod of at least 10 years after the completion of the agriculture workforce  
17 housing project, unless a waiver has been granted under subsection (4) of  
18 this section.

19 “[11)(a) Pursuant to the procedures for a contested case under ORS chapter  
20 183, the Department of Revenue may order the disallowance of the credit al-  
21 lowed under this section if it finds, by order, that:]

22 “[A) The credit was obtained by fraud or misrepresentation; or]

23 “[B) In the event that an owner or operator claims or claimed the credit:]

24 “[i) The taxpayer has failed to continue to substantially comply with the  
25 occupational safety or health laws, rules, regulations or standards;]

26 “[ii) After occupancy and if registration is required, the agriculture  
27 workforce housing is not registered as a farmworker camp with the Department  
28 of Consumer and Business Services under ORS 658.750;]

29 “[iii) After occupancy and if an indorsement is required, the agriculture  
30 workforce housing is not operated by a person who holds a valid indorsement

1 *as a farmworker camp operator under ORS 658.730; or]*

2 *“(iv) The taxpayer has failed to make a showing that the housing continues*  
3 *to be operated as agriculture workforce housing as required under subsection*  
4 *(4)(a) of this section and the taxpayer has not been granted a waiver by the*  
5 *Housing and Community Services Department under subsection (4)(b) of this*  
6 *section.]*

7 *“(b) If the tax credit is disallowed pursuant to this subsection, notwith-*  
8 *standing ORS 314.410 or other law, all prior tax relief provided to the taxpayer*  
9 *shall be forfeited and the Department of Revenue shall proceed to collect those*  
10 *taxes not paid by the taxpayer as a result of the prior granting of the credit.]*

11 *“(c) If the tax credit is disallowed pursuant to this subsection, the taxpayer*  
12 *shall be denied any further credit provided under this section, in connection*  
13 *with the agriculture workforce housing project, as the case may be, from and*  
14 *after the date that the order of disallowance becomes final.]*

15 **“(11) The Director of the Housing and Community Services Depart-**  
16 **ment may order the suspension or revocation of a letter of credit ap-**  
17 **proval issued under ORS 315.167 or the disallowance of a credit allowed**  
18 **under this section, as provided in section 4 of this 2017 Act.**

19 *“(12) In the event that the agriculture workforce housing is destroyed by*  
20 *fire, flood, natural disaster or act of God before all of the credit has been*  
21 *used, the taxpayer may nevertheless claim the credit as if no destruction had*  
22 *taken place. In the event of fire, if the fire chief of the fire protection district*  
23 *or unit determines that the fire was caused by arson, as defined in ORS*  
24 *164.315 and 164.325, by the taxpayer or by another at the taxpayer’s direction,*  
25 *then the fire chief shall notify the Department of Revenue. Upon conviction*  
26 *of arson, the Department of Revenue shall disallow the credit in accordance*  
27 *with subsection (11) of this section.*

28 *“(13)(a) A nonresident individual shall be allowed the credit computed in*  
29 *the same manner and subject to the same limitations as the credit allowed*  
30 *a resident by this section. However, the credit shall be prorated using the*

1 proportion provided in ORS 316.117.

2 “(b) If a change in the [*taxable*] **tax** year of a taxpayer occurs as described  
3 in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s  
4 [*taxable*] **tax** year under ORS 314.440, the credit allowed by this section shall  
5 be prorated or computed in a manner consistent with ORS 314.085.

6 “(c) If a change in the status of a taxpayer from resident to nonresident  
7 or from nonresident to resident occurs, the credit allowed by this section  
8 shall be determined in a manner consistent with ORS 316.117.

9 “(14) The Department of Revenue may adopt rules for carrying out the  
10 provisions of this section.

11 “**(15) The Housing and Community Services Department shall pro-**  
12 **vide information to the Department of Revenue about all letters of**  
13 **credit approval and certifications granted under this section, if re-**  
14 **quired by section 3 of this 2017 Act.**

15 “**SECTION 9.** ORS 315.169 is amended to read:

16 “315.169. (1) A taxpayer that is a contributor is allowed a credit against  
17 the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident  
18 individual, or ORS chapter 317, if the taxpayer is a corporation, to the extent  
19 the owner or operator of agriculture workforce housing transferred all or a  
20 portion of the credit allowed to the owner or operator under ORS 315.164.

21 “(2) An owner or operator of agriculture workforce housing may transfer  
22 all or a portion of the credit allowed to the owner or operator under ORS  
23 315.164 to one or more contributors but the amount transferred may not total  
24 more than the total credit the owner or operator may claim. **The transfer**  
25 **must comply with section 2 of this 2017 Act.**

26 “(3) To receive a credit under this section:

27 “(a) The contributor must obtain a letter of credit approval from the  
28 Housing and Community Services Department under ORS 315.167; or

29 “(b) If the owner or operator of agriculture workforce housing elects to  
30 transfer all or a portion of the credit allowed under ORS 315.164 after the

1 date that a letter of credit approval has been issued to the owner or operator,  
2 the owner or operator and the contributor must [*jointly file a statement with*  
3 *the Department of Revenue stating the portion of the credit the contributor is*  
4 *allowed to claim and any other information the department may require by*  
5 *rule*] **comply with section 2 of this 2017 Act.**

6 “(4) A contributor remains eligible to receive a credit under this section  
7 even if the owner or operator of the agriculture workforce housing becomes  
8 ineligible for the credit as a result of:

9 “(a) Failure to file the annual certification under ORS 315.164 (6);

10 “(b) Failure to continue to substantially comply with occupational safety  
11 or health laws, rules, regulations or standards under ORS 315.164 (10);

12 “(c) Failure to register as a farmworker camp with the Department of  
13 Consumer and Business Services under ORS 658.750;

14 “(d) Failure of the operator to hold a valid indorsement as a farmworker  
15 camp operator under ORS 658.730; or

16 “(e) Failure to comply with any other rules or provisions relating to the  
17 operation or maintenance of the agriculture workforce housing after work  
18 on the agriculture workforce housing project has been completed.

19 “[5)(a) *A contributor does not remain eligible to receive a credit under this*  
20 *section if the Department of Revenue finds, by order of a disallowance of credit*  
21 *and pursuant to the procedures for a contested case under ORS chapter 183,*  
22 *that the contributor obtained the credit by fraud or misrepresentation, includ-*  
23 *ing a finding that the housing did not comply with all occupational safety or*  
24 *health laws, rules, regulations and standards applicable for agriculture*  
25 *workforce housing at the time the housing was completed.]*

26 “[b) *If the credit is disallowed pursuant to this subsection, notwithstand-*  
27 *ing ORS 314.410 or other law, all prior tax relief provided to the taxpayer*  
28 *shall be forfeited and the department shall proceed to collect those taxes not*  
29 *paid by the taxpayer as a result of the prior granting of the credit.]*

30 “[c) *If the credit is disallowed pursuant to this subsection, the taxpayer*

1 *shall be denied any further credit provided under this section, in connection*  
2 *with the agriculture workforce housing project, as the case may be, from and*  
3 *after the date that the order of disallowance becomes final.]*

4 **“(5) The Director of the Housing and Community Services Depart-**  
5 **ment may order the suspension or revocation of a letter of credit ap-**  
6 **proval issued under 315.167 or the disallowance of a credit allowed**  
7 **under this section, as provided in section 4 of this 2017 Act.**

8 “(6)(a) The credit allowed under this section may be taken for the tax  
9 year in which the agriculture workforce housing project is completed or in  
10 any of the nine tax years succeeding the tax year in which the project is  
11 completed.

12 “(b) The credit allowed in any one tax year may not exceed 20 percent  
13 of the amount determined under subsection (2) of this section that was  
14 transferred to the contributor claiming the credit.

15 “(7) Except as provided under subsection (8) of this section, the credit  
16 allowed in any one year may not exceed the tax liability of the taxpayer.

17 “(8) Any tax credit otherwise allowable under this section that is not used  
18 by the taxpayer in a particular tax year may be carried forward and offset  
19 against the taxpayer’s tax liability for the next succeeding tax year. Any  
20 credit remaining unused in [*such*] **the** next succeeding tax year may be car-  
21 ried forward and used in the second succeeding tax year, and likewise any  
22 credit not used in that second succeeding tax year may be carried forward  
23 and used in the third succeeding tax year, and any credit not used in that  
24 third succeeding tax year may be carried forward and used in the fourth  
25 succeeding tax year, and any credit not used in that fourth succeeding tax  
26 year may be carried forward and used in the fifth succeeding tax year, and  
27 any credit not used in that fifth succeeding tax year may be carried forward  
28 and used in the sixth succeeding tax year, and any credit not used in that  
29 sixth succeeding tax year may be carried forward and used in the seventh  
30 succeeding tax year, and any credit not used in that seventh succeeding tax



1 year may be carried forward and used in the eighth succeeding tax year, and  
2 any credit not used in that eighth succeeding tax year may be carried for-  
3 ward and used in the ninth succeeding tax year, but may not be carried  
4 forward for any tax year thereafter.

5 “(9)(a) A nonresident individual shall be allowed the credit computed in  
6 the same manner and subject to the same limitations as the credit allowed  
7 a resident by this section. However, the credit shall be prorated using the  
8 proportion provided in ORS 316.117.

9 “(b) If a change in the [*taxable*] **tax** year of a taxpayer occurs as described  
10 in ORS 314.085, or if the department terminates the taxpayer’s [*taxable*] **tax**  
11 year under ORS 314.440, the credit allowed by this section shall be prorated  
12 or computed in a manner consistent with ORS 314.085.

13 “(c) If a change in the status of a taxpayer from resident to nonresident  
14 or from nonresident to resident occurs, the credit allowed by this section  
15 shall be determined in a manner consistent with ORS 316.117.

16 “(10) The department may adopt rules for carrying out the provisions of  
17 this section.

18 “(11) **The Housing and Community Services Department shall pro-**  
19 **vide information to the Department of Revenue about all letters of**  
20 **credit approval granted under ORS 315.167, if required by section 3 of**  
21 **this 2017 Act.**

22 “**SECTION 10.** ORS 317.097, as amended by section 23, chapter 33, Oregon  
23 Laws 2016, is amended to read:

24 “317.097. (1) As used in this section:

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

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

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

5 “(d) ‘Manufactured dwelling park’ has the meaning given that term in  
6 ORS 446.003.

7 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from in-  
8 come taxes under section 501(c)(3) or (4) of the Internal Revenue Code as  
9 amended and in effect on December 31, 2015.

10 “(f) ‘Preservation project’ means housing that was previously developed  
11 as affordable housing with a contract for rent assistance from the United  
12 States Department of Housing and Urban Development or the United States  
13 Department of Agriculture and that is being acquired by a sponsoring entity.

14 “(g) ‘Qualified assignee’ means any investor participating in the second-  
15 ary market for real estate loans.

16 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity  
17 that has a controlling interest in the real property that is financed by a  
18 qualified loan. A controlling interest includes, but is not limited to, a con-  
19 trolling interest in the general partner of a limited partnership that owns  
20 the real property.

21 “(i) ‘Qualified loan’ means:

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

25 “(B) The purchase by a lending institution of bonds, as defined in ORS  
26 286A.001, issued on behalf of the Housing and Community Services Depart-  
27 ment, the proceeds of which are used to finance or refinance a loan that  
28 meets the criteria described in subsection (5) of this section.

29 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooper-  
30 ative, state governmental entity, local unit of government as defined in ORS

1 466.706, housing authority or any other person, provided that the person has  
2 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit  
3 cooperative, state governmental entity, local unit of government or housing  
4 authority.

5 “(2) The Department of Revenue shall allow a credit against taxes other-  
6 wise due under this chapter for the [*taxable*] **tax** year to a lending institution  
7 that makes a qualified loan certified by the Housing and Community Services  
8 Department as provided in subsection (7) of this section. The amount of the  
9 credit is equal to the difference between:

10 “(a) The amount of finance charge charged by the lending institution  
11 during the [*taxable*] **tax** year at an annual rate less than the market rate for  
12 a qualified loan that is made before January 1, 2020, that complies with the  
13 requirements of this section; and

14 “(b) The amount of finance charge that would have been charged during  
15 the [*taxable*] **tax** year by the lending institution for the qualified loan for  
16 housing construction, development, acquisition or rehabilitation measured  
17 at the annual rate charged by the lending institution for nonsubsidized loans  
18 made under like terms and conditions at the time the qualified loan for  
19 housing construction, development, acquisition or rehabilitation is made.

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

24 “(4) Any tax credit allowed under this section that is not used by the  
25 taxpayer in a particular year may be carried forward and offset against the  
26 taxpayer’s tax liability for the next succeeding tax year. Any credit remain-  
27 ing unused in the next succeeding tax year may be carried forward and used  
28 in the second succeeding tax year, and likewise, any credit not used in that  
29 second succeeding tax year may be carried forward and used in the third  
30 succeeding tax year, and any credit not used in that third succeeding tax

1 year may be carried forward and used in the fourth succeeding tax year, and  
2 any credit not used in that fourth succeeding tax year may be carried for-  
3 ward and used in the fifth succeeding tax year, but may not be carried for-  
4 ward for any tax year thereafter.

5 “(5) To be eligible for the tax credit allowable under this section, a  
6 lending institution must make a qualified loan by either purchasing bonds,  
7 as defined in ORS 286A.001, issued on behalf of the Housing and Community  
8 Services Department, the proceeds of which are used to finance or refinance  
9 a loan that meets the criteria stated in this subsection, or by making a loan  
10 directly to:

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

15 “(b) A qualified borrower who:

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

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

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

22 “(ii) Full amount of savings from the reduced interest rate provided by  
23 the lending institution is or will be passed on to the tenants in the form of  
24 reduced housing payments, regardless of other subsidies provided to the  
25 housing project;

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

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

30 “(B) Provides a written certification executed by the Housing and Com-

1 munity Services Department that the housing will continue to be operated  
2 as a manufactured dwelling park during the period for which the tax credit  
3 is allowed; or

4 “(d) A qualified borrower who:

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

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

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

11 “(ii) Is the subject of a rent assistance contract with the United States  
12 Department of Housing and Urban Development or the United States De-  
13 partment of Agriculture that will be maintained by the qualified borrower.

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

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

20 “(a) Specifies the period, not to exceed 20 years, as determined by the  
21 Housing and Community Services Department, during which the tax credit  
22 is allowed for the qualified loan; and

23 “(b) States that the qualified loan is within the limitation imposed by  
24 subsection (8) of this section.

25 “(8) The Housing and Community Services Department may certify quali-  
26 fied loans that are eligible under subsection (5) of this section if the total  
27 credits attributable to all qualified loans eligible for credits under this sec-  
28 tion and then outstanding do not exceed \$17 million for any fiscal year. In  
29 making loan certifications under subsection (7) of this section, the Housing  
30 and Community Services Department shall attempt to distribute the tax

1 credits statewide, but shall concentrate the tax credits in those areas of the  
2 state that are determined by the Oregon Housing Stability Council to have  
3 the greatest need for affordable housing.

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

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

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

11 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section  
12 financed through the purchase of bonds, the interest of which is exempt from  
13 federal taxation under section 103 of the Internal Revenue Code, the amount  
14 of finance charge that would have been charged under subsection (2)(b) of  
15 this section is determined by reference to the finance charge that would have  
16 been charged if the federally tax exempt bonds had been issued and the tax  
17 credit under this section did not apply.

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

24 “(12) Notwithstanding any other provision of law, a lending institution  
25 that is a community development corporation organized under the Oregon  
26 Nonprofit Corporation Law may transfer all or part of a tax credit allowed  
27 under this section to one or more other lending institutions that are stock-  
28 holders or members of the community development corporation or that oth-  
29 erwise participate through the community development corporation in the  
30 making of one or more qualified loans for which the tax credit under this

1 section is allowed. **The transfer must comply with section 2 (2) of this**  
2 **2017 Act.**

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

7 “(14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified  
8 borrower on a loan to finance the construction, development, acquisition or  
9 rehabilitation of a manufactured dwelling park under subsection (5)(c) of this  
10 section must be a nonprofit corporation, manufactured dwelling park  
11 nonprofit cooperative, state governmental entity, local unit of government  
12 as defined in ORS 466.706 or housing authority.

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

15 **“(16) The Housing and Community Services Department shall pro-**  
16 **vide information to the Department of Revenue about all certifications**  
17 **executed under this section, if required by section 3 of this 2017 Act.**

18 **“(17) The Director of the Housing and Community Services Depart-**  
19 **ment may order the suspension or revocation of a certification or a**  
20 **portion of a certification executed under this section, as provided in**  
21 **section 4 of this 2017 Act.**

22 **“SECTION 11.** ORS 469B.106 is amended to read:

23 “469B.106. (1) Subject to the limitations in section 75, chapter 730, Oregon  
24 Laws 2011, any person may claim a tax credit under ORS 316.116 if the per-  
25 son:

26 “(a) Meets the requirements of ORS 316.116;

27 “(b) Meets the requirements of ORS 469B.100 to 469B.118; and

28 “(c) Pays, subject to subsection (9) of this section, all or a portion of the  
29 costs of an alternative energy device.

30 “(2) In order to be eligible for a tax credit under ORS 316.116, a person

1 claiming a tax credit for construction or installation of an alternative energy  
2 device shall have the device certified by the State Department of Energy or  
3 constructed or installed by a contractor certified by the department under  
4 subsection (4) of this section.

5 “(3) Verification of the purchase, construction or installation of an al-  
6 ternative energy device shall be made in writing on a form provided by the  
7 [Department of Revenue] **State Department of Energy** and, if applicable,  
8 shall contain:

9 “(a) The location of the alternative energy device;

10 “(b) A description of the type of device;

11 “(c) If the device was constructed or installed by a contractor, evidence  
12 that the contractor has any license, bond, insurance and permit required to  
13 sell and construct or install the alternative energy device;

14 “(d) If the device was constructed or installed by a contractor, a state-  
15 ment signed by the contractor that the applicant has received:

16 “(A) A statement of the reasonably expected energy savings of the device;

17 “(B) A copy of consumer information published by the State Department  
18 of Energy;

19 “(C) An operating manual for the alternative energy device; and

20 “(D) A copy of the contractor’s certification certificate or alternative en-  
21 ergy device system certificate for the alternative energy device, as appropri-  
22 ate;

23 “(e) If the device was not constructed or installed by a contractor, evi-  
24 dence that:

25 “(A) The State Department of Energy has issued an alternative energy  
26 device system certificate for the alternative energy device; and

27 “(B) The taxpayer has obtained all building permits required for con-  
28 struction or installation of the device;

29 “(f) A statement, signed by both the taxpayer claiming the credit and the  
30 contractor if the device was constructed or installed by a contractor, that



1 the construction or installation meets all the requirements of ORS 469B.100  
2 to 469B.118;

3 “(g) The date the alternative energy device was purchased by the resi-  
4 dential property owner, or, for a third-party alternative energy device in-  
5 stallation, the date that the residential property owner and the alternative  
6 energy device owner signed a contract;

7 “(h) The date the alternative energy device was placed in service; and

8 “(i) Any other information that the Director of the State Department of  
9 Energy [*or the Department of Revenue*] determines is necessary.

10 “(4)(a) When the State Department of Energy finds that an alternative  
11 energy device can meet the standards adopted under ORS 469B.103, the Di-  
12 rector of the State Department of Energy may issue a contractor system  
13 certification to the person selling and constructing or installing the alter-  
14 native energy device.

15 “(b) Any person who sells or installs more than 12 alternative energy  
16 devices in one year shall apply for a contractor system certification. An ap-  
17 plication for a contractor system certification shall be made in writing on  
18 a form provided by the State Department of Energy and shall contain:

19 “(A) A statement that the contractor has any license, bonding, insurance  
20 and permit that is required for the sale and construction or installation of  
21 the alternative energy device;

22 “(B) A specific description of the alternative energy device, including, but  
23 not limited to, the material, equipment and mechanism used in the device,  
24 operating procedure, sizing and siting method and construction or installa-  
25 tion procedure;

26 “(C) The addresses of three installations of the device that are available  
27 for inspection by the State Department of Energy;

28 “(D) The range of installed costs to purchasers of the device;

29 “(E) Any important construction, installation or operating instructions;  
30 and

1       “(F) Any other information that the State Department of Energy deter-  
2 mines is necessary.

3       “(c) A new application for contractor system approval shall be filed when  
4 there is a change in the information supplied under paragraph (b) of this  
5 subsection.

6       “(d) The State Department of Energy may issue contractor system certif-  
7 icates to each contractor who on October 3, 1989, has a valid dealer system  
8 certification, which shall authorize the sale and installation of the same  
9 domestic water heating alternative energy devices authorized by the dealer  
10 certification.

11       “(e) If the State Department of Energy finds that an alternative energy  
12 device can meet the standards adopted under ORS 469B.103, the Director of  
13 the State Department of Energy may issue an alternative energy device sys-  
14 tem certificate to the taxpayer constructing or installing or having an al-  
15 ternative energy device constructed or installed.

16       “(f) An application for an alternative energy device system certificate  
17 shall be made in writing on a form provided by the State Department of  
18 Energy and shall contain:

19       “(A) A specific description of the alternative energy device, including, but  
20 not limited to, the material, equipment and mechanism used in the device,  
21 operating procedure, sizing, siting method and construction or installation  
22 procedure;

23       “(B) The constructed or installed cost of the device; and

24       “(C) A statement that the taxpayer has all permits required for con-  
25 struction or installation of the device.

26       “(5) Prior to commencing installation of alternative energy devices, in-  
27 stallers of third-party alternative energy device installations must apply to  
28 the State Department of Energy to reserve credits on behalf of owners of  
29 residential property. Installers may reserve credit for no more than 25 in-  
30 stallations under this subsection in one application.

1 “(6) To claim the tax credit, the verification form described in subsection  
2 (3) of this section shall be [submitted] **retained** with the taxpayer’s tax [re-  
3 turn] **records** for the year the alternative energy device is placed in service  
4 or the immediately succeeding tax year. A copy of the contractor’s certi-  
5 fication certificate or alternative energy device system certificate also shall  
6 be [submitted] **retained**.

7 “(7) The verification form and contractor’s certificate or alternative en-  
8 ergy device system certificate described under this section shall be effective  
9 for purposes of tax relief allowed under ORS 316.116.

10 “(8) The verification form and contractor’s certificate described under this  
11 section may be transferred to the first purchaser of a dwelling who intends  
12 to use the dwelling as a principal or secondary residence. **The transfer**  
13 **must comply with section 2 of this 2017 Act.**

14 “(9) Any person that pays the present value of the tax credit for an al-  
15 ternative energy device provided under ORS 316.116 and 469B.100 to 469B.118  
16 to the person who constructs or installs the alternative energy device shall  
17 be entitled to claim the credit in the manner and subject to rules adopted  
18 by the Department of Revenue to carry out the purposes of this subsection.  
19 The State Department of Energy may establish by rule uniform discount  
20 rates to be used in calculating the present value of a tax credit under this  
21 subsection. **The transfer must comply with section 2 of this 2017 Act.**

22 “(10) **The State Department of Energy shall provide information to**  
23 **the Department of Revenue about all verifications and certifications**  
24 **issued under this section, if required by section 3 of this 2017 Act.**

25 “**SECTION 12.** ORS 469B.118 is amended to read:

26 “469B.118. [(1) *Upon the Department of Revenue’s own motion, or upon re-*  
27 *quest of the State Department of Energy, the Department of Revenue may ini-*  
28 *tiate proceedings for the forfeiture of a tax credit allowed under ORS 316.116*  
29 *if:]*

30 “[*a*) *The verification was fraudulent because of a misrepresentation by the*

1 *taxpayer;]*

2 *“[(b) The verification was fraudulent because of a misrepresentation by the*  
3 *contractor;]*

4 *“[(c) The alternative energy device has not been constructed, installed or*  
5 *operated in substantial compliance with the requirements of ORS 469B.100 to*  
6 *469B.118; or]*

7 *“[(d) The taxpayer failed to consent to an inspection of the constructed or*  
8 *installed alternative energy device by the State Department of Energy after a*  
9 *reasonable, written request for such an inspection by the State Department of*  
10 *Energy.]*

11 **“(1) The Director of the State Department of Energy may order the**  
12 **forfeiture of a tax credit allowed under ORS 316.116 or the revocation**  
13 **of a contractor certificate issued under ORS 469B.106, as provided in**  
14 **section 4 of this 2017 Act.**

15 *“(2) [Pursuant to the procedures for a contested case under ORS chapter*  
16 *183,] In addition to the grounds listed in section 4 of this 2017 Act, the*  
17 *director [of the State Department of Energy] may order the revocation of a*  
18 *contractor certificate issued under ORS 469B.106 if the director finds that:*

19 *“[(a) The contractor certificate was obtained by fraud or misrepresentation*  
20 *by the contractor certificate holder;]*

21 *“[(b)] (a) The contractor’s performance for the alternative energy device*  
22 *for which the contractor is issued a certificate under ORS 469B.106 does not*  
23 *meet industry standards; or*

24 *“[(c)] (b) The contractor has misrepresented to the customer either the*  
25 *tax credit program or the nature or quality of the alternative energy device.*

26 *“(3) If the tax credit allowed under ORS 316.116 for the purchase, con-*  
27 *struction or installation of an alternative energy device is ordered forfeited*  
28 *due to an action of the taxpayer [under subsection (1)(a), (c) or (d) of this*  
29 *section], all prior tax relief provided to the taxpayer shall be forfeited and*  
30 *the Department of Revenue shall proceed to collect those taxes not paid by*

1 the taxpayer as a result of the tax credit relief under ORS 316.116.

2 “(4) If the tax credit for the construction or installation of an alternative  
3 energy device is ordered forfeited due to an action of the contractor [*under*  
4 *subsection (1)(b) of this section*], the Department of Revenue shall proceed to  
5 collect, from the contractor, an amount equivalent to those taxes not paid  
6 by the taxpayer as a result of the tax credit relief under ORS 316.116. As  
7 long as the forfeiture is due to an action of the contractor and not to an  
8 action of the taxpayer, the assessment of [*such*] **these** taxes shall be levied  
9 on the contractor and not on the taxpayer. Notwithstanding ORS 314.835, the  
10 Department of Revenue may disclose information from income tax returns  
11 or reports to the extent such disclosure is necessary to collect amounts from  
12 contractors under this subsection.

13 “(5) In order to obtain information necessary to verify eligibility and  
14 amount of the tax credit, the State Department of Energy or its represen-  
15 tative may inspect an alternative energy device that has been purchased,  
16 constructed or installed. The inspection shall be made only with the consent  
17 of the owner of the dwelling. Failure to consent to the inspection is grounds  
18 for the forfeiture of any tax credit relief under ORS 316.116. The Department  
19 of Revenue shall proceed to collect any taxes due according to subsection (4)  
20 of this section. For electrical generating alternative energy devices, the State  
21 Department of Energy may obtain energy consumption records for the  
22 dwelling the device serves, for a 12-month period, in order to verify eligibil-  
23 ity and amount of the tax credit.

24 **SECTION 12a.** ORS 469B.991 is amended to read:

25 469B.991. (1) The Director of the State Department of Energy may impose  
26 a civil penalty against a contractor if a contractor certificate is revoked  
27 under ORS 469B.118. The amount of the penalty shall be equal to the total  
28 amount of tax relief estimated to have been provided under ORS 316.116 to  
29 the contractor or to purchasers of the system for which a contractor’s cer-  
30 tificate has been revoked.

1 (2) The State Department of Energy may not collect any of the amount  
2 of a civil penalty imposed under subsection (1) of this section from a pur-  
3 chaser of the system for which the final certificate has been revoked. How-  
4 ever, the Department of Revenue shall proceed under ORS 469B.118 (3) to  
5 collect taxes not paid by a taxpayer if the tax credit is ordered forfeited be-  
6 cause of that taxpayer's fraud or misrepresentation under ORS 469B.118  
7 [(1)(a)].

8 (3) Civil penalties under this section shall be imposed as provided in ORS  
9 183.745.

10 (4) A penalty recovered under this section shall be paid into the State  
11 Treasury and credited to the General Fund and is available for general gov-  
12 ernmental expenses.

13 **SECTION 13.** ORS 469B.276 is amended to read:

14 "469B.276. (1) The owner of a project may transfer a tax credit for the  
15 project in exchange for a cash payment equal to the present value of the  
16 potential tax credit, as determined at the time of the application for prelim-  
17 inary certification. If the tax credit is subject to recertification, only that  
18 portion of the tax credit that has been recertified may be transferred. **The**  
19 **transfer must comply with section 2 of this 2017 Act.**

20 "(2) The State Department of Energy shall establish by rule a formula to  
21 be employed in the determination of prices of credits transferred under this  
22 section. In establishing the formula the department shall incorporate in-  
23 flation projections and market real rate of return.

24 "(3) The department shall recalculate credit transfer prices quarterly,  
25 employing the formula established under subsection (2) of this section.

26 **SECTION 14.** ORS 469B.291 is amended to read:

27 "469B.291. (1) The Director of the State Department of Energy may issue  
28 a final certification for an energy conservation project under this section  
29 only if:

30 "(a) The project was installed or constructed under a preliminary certif-

1 icate of approval issued under ORS 469B.288, unless preliminary certification  
2 is waived under ORS 469B.285 (5);

3 “(b) The applicant demonstrates the ability to provide the information  
4 required by ORS 469B.285 (2) and does not violate any condition that may  
5 be imposed as described in subsections (4) and (5) of this section; and

6 “(c) The project was installed or constructed in accordance with the ap-  
7 plicable provisions of ORS 469B.270 to 469B.306 and any applicable rules or  
8 standards adopted by the director.

9 “(2) Any person may apply to the State Department of Energy for final  
10 certification of a project:

11 “(a) If the person received preliminary certification for the project under  
12 ORS 469B.288; and

13 “(b) After completion of the installation or construction of the project.

14 “(3) An application for final certification shall be made in writing on a  
15 form prepared by the department and shall contain:

16 “(a) A statement that the conditions of the preliminary certification have  
17 been complied with;

18 “(b) The actual cost of the project attested to by a certified public ac-  
19 countant who is not an employee of the applicant or, if the actual cost of  
20 the project is less than \$50,000, copies of receipts for purchase and installa-  
21 tion of the project;

22 “(c) The amount of the credit under ORS 315.331 that is to be claimed;

23 “(d) The number and type of jobs, directly connected to the allowance of  
24 the credit, that will be created by the operation and maintenance of the  
25 project over the five-year period beginning with the year of preliminary  
26 certification under ORS 469B.288;

27 “(e) Information sufficient to demonstrate that the project will remain in  
28 operation for at least five years, unless the director by rule specifies another  
29 period of operation;

30 “(f) Documentation of compliance with applicable state and local laws and

1 regulations and licensing and permitting requirements as defined by the di-  
2 rector;

3 “(g) Information, if applicable, pertaining to prior recommendation of the  
4 project by a qualified third party selected by the director; and

5 “(h) Any other information determined by the director to be necessary  
6 prior to issuance of a final certificate, including inspection of the project by  
7 the department.

8 “(4) As part of the final certification process, the director may require the  
9 applicant to enter into a performance agreement with the department. The  
10 performance agreement may include a recertification requirement under ORS  
11 469B.298 and any additional requirements that the director determines are  
12 appropriate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306.

13 “(5) After the filing of the application under this section, the director may  
14 issue the certificate together with any conditions, including conditions im-  
15 posed by a performance agreement, that the director determines are appro-  
16 priate to promote the purposes of ORS 315.331 and 469B.270 to 469B.306. If  
17 the applicant is an entity subject to regulation by the Public Utility Com-  
18 mission, the director may consult with the commission prior to issuance of  
19 the certificate. The action of the director shall include certification of the  
20 actual cost of the project. However, the director may not certify an amount  
21 for tax credit purposes that is more than the amount approved in the pre-  
22 liminary certificate issued for the project.

23 “(6) Except as otherwise provided in ORS 469B.298, if the director rejects  
24 an application for final certification, or certifies a lesser amount of credit  
25 than was claimed in the application, the director shall send to the applicant  
26 written notice of the action, together with a statement of the findings and  
27 reasons for the action, by certified mail, before the 60th day after the filing  
28 of the application. Failure of the director to act constitutes rejection of the  
29 application.

30 “(7) Upon approval of an application for final certification of a project,



1 the director shall certify the project. The final certification shall indicate the  
2 amount of projected energy savings attributable to the project and the total  
3 project cost.

4 “(8) The director may establish by rule timelines and intermediate dead-  
5 lines for submission of application materials.

6 “(9) **The State Department of Energy shall provide information to**  
7 **the Department of Revenue about all certifications issued under this**  
8 **section, if required by section 3 of this 2017 Act.**

9 “**SECTION 15.** ORS 469B.300 is amended to read:

10 “469B.300. **The Director of the State Department of Energy may or-**  
11 **der the suspension or revocation of a certificate or a portion of a**  
12 **certificate issued under ORS 469B.291, as provided in section 4 of this**  
13 **2017 Act.**

14 “[1] *Under the procedures for a contested case under ORS chapter 183, the*  
15 *Director of the State Department of Energy may order the revocation of a cer-*  
16 *tificate issued under ORS 469B.291 if the director finds that:]*

17 “[a] *The certification was obtained by fraud or misrepresentation;]*

18 “[b] *The holder of the certificate or the operator of the project has failed*  
19 *to construct or operate the project in compliance with the plans, specifications*  
20 *and procedures in the certificate; or]*

21 “[c] *The project is no longer in operation.]*

22 “[2] *As soon as an order of revocation under this section becomes final, the*  
23 *director shall notify the Department of Revenue and the project owner, contract*  
24 *purchaser or lessee of the order of revocation. Upon notification, the Depart-*  
25 *ment of Revenue immediately shall proceed to collect those taxes not paid by*  
26 *the certificate holder as a result of the tax credits provided to the certificate*  
27 *holder under ORS 315.331, from the certificate holder or a successor in interest*  
28 *to the business interests of the certificate holder. All prior tax credits provided*  
29 *to the holder of the certificate by virtue of the certificate shall be forfeited.]*

30 “[3](a) *The Department of Revenue shall have the benefit of all laws of this*

1 state pertaining to the collection of income and excise taxes and may proceed  
2 to collect the amounts described in subsection (2) of this section from the per-  
3 son that obtained certification from the State Department of Energy, or any  
4 successor in interest to the business interests of that person. An assessment of  
5 tax is not necessary and a statute of limitation does not preclude the collection  
6 of taxes described in this subsection.]

7 “[b) For purposes of this subsection, a lender, bankruptcy trustee or other  
8 person that acquires an interest through bankruptcy or through foreclosure of  
9 a security interest is not considered to be a successor in interest to the business  
10 interests of the person that obtained certification.]

11 “[4) If the certificate is ordered revoked pursuant to subsection (1)(b) of  
12 this section, the certificate holder shall be denied any further relief under ORS  
13 315.331 in connection with the project from and after the date that the order  
14 of revocation becomes final.]

15 “[5) Notwithstanding subsections (1) to (4) of this section, a certificate or  
16 portion of a certificate held by a transferee under ORS 469B.276 may not be  
17 considered revoked for purposes of the transferee, the tax credit allowable to  
18 the transferee under ORS 469B.276 may not be reduced, and a transferee is  
19 not liable under subsections (2) to (4) of this section.]

20 “[6) If the project owner is subject to a performance agreement requiring  
21 recertification under ORS 469B.298, the certificate shall be considered revoked  
22 as to any portion of the tax credit that has not previously received approval  
23 under a recertification application that was required to have been filed pur-  
24 suant to ORS 469B.298.]

25 **“SECTION 16.** ORS 469B.323 is amended to read:

26 “469B.323. (1) The owner of a transportation project may transfer a tax  
27 credit for the project in exchange for a cash payment equal to the present  
28 value of the tax credit. **The transfer must comply with section 2 of this**  
29 **2017 Act.**

30 “(2) The State Department of Energy shall establish by rule a formula to

1 be employed in the determination of prices of credits transferred under this  
2 section. In establishing the formula the department shall incorporate in-  
3 flation projections and market real rate of return.

4 “(3) The department shall recalculate credit transfer prices quarterly,  
5 employing the formula established under subsection (2) of this section.

6 **“SECTION 17.** ORS 469B.341 is amended to read:

7 **“469B.341. The Director of the State Department of Energy may or-**  
8 **der the suspension or revocation of a certificate or a portion of a**  
9 **certificate issued under ORS 469B.332, as provided in section 4 of this**  
10 **2017 Act.**

11 *“[(1) Under the procedures for a contested case under ORS chapter 183, the*  
12 *Director of the State Department of Energy may order the revocation of a cer-*  
13 *tificate issued under ORS 469B.332 if the director finds that:]*

14 *“[(a) The certification was obtained by fraud or misrepresentation;]*

15 *“[(b) The holder of the certificate or the operator of the transportation*  
16 *project has failed to acquire or perform the project in compliance with the*  
17 *plans, specifications and contract terms in the certificate; or]*

18 *“[(c) The project is no longer in operation.]*

19 *“[(2) As soon as an order of revocation under this section becomes final, the*  
20 *director shall notify the Department of Revenue and the project owner, contract*  
21 *purchaser or lessee of the order of revocation. Upon notification, the Depart-*  
22 *ment of Revenue immediately shall proceed to collect those taxes not paid by*  
23 *the certificate holder as a result of the tax credits provided to the certificate*  
24 *holder under ORS 315.336, from the certificate holder or a successor in interest*  
25 *to the business interests of the certificate holder. All prior tax credits provided*  
26 *to the holder of the certificate by virtue of the certificate shall be forfeited.]*

27 *“[(3)(a) The Department of Revenue shall have the benefit of all laws of this*  
28 *state pertaining to the collection of income and excise taxes and may proceed*  
29 *to collect the amounts described in subsection (2) of this section from the per-*  
30 *son that obtained certification from the State Department of Energy, or any*

1 *successor in interest to the business interests of that person. An assessment of*  
2 *tax is not necessary and a statute of limitation does not preclude the collection*  
3 *of taxes described in subsection (2) of this section.]*

4 *“(b) For purposes of this subsection, a lender, bankruptcy trustee or other*  
5 *person that acquires an interest through bankruptcy or through foreclosure of*  
6 *a security interest is not considered to be a successor in interest to the business*  
7 *interests of the person that obtained certification.]*

8 *“(4) If the certificate is ordered revoked pursuant to subsection (1)(b) of*  
9 *this section, the certificate holder shall be denied any further relief under ORS*  
10 *315.336 in connection with the project from and after the date that the order*  
11 *of revocation becomes final.]*

12 *“(5) Notwithstanding subsections (1) to (4) of this section, a certificate or*  
13 *portion of a certificate held by a transferee under ORS 469B.323 may not be*  
14 *considered revoked for purposes of the transferee, the tax credit allowable to*  
15 *the transferee under ORS 469B.323 may not be reduced, and a transferee is*  
16 *not liable under subsections (2) to (4) of this section.]*

17 **“SECTION 18.** ORS 469B.332 is amended to read:

18 **“469B.332.** (1) A final certification for a transportation project may not  
19 be issued by the Director of the State Department of Energy under this sec-  
20 tion unless:

21 **“(a)** The project was acquired or performed under a preliminary certificate  
22 of approval issued under ORS 469B.329;

23 **“(b)** The applicant demonstrates the ability to provide the information  
24 required by ORS 469B.326 (2) and does not violate any condition that may  
25 be imposed as described in subsection (4) of this section; and

26 **“(c)** The project was acquired or performed in accordance with the appli-  
27 cable provisions of ORS 469B.320 to 469B.347 and any applicable rules or  
28 standards adopted by the director.

29 **“(2)** A person may apply to the State Department of Energy for final  
30 certification of a project:

1       “(a) If the person received preliminary certification for the project under  
2       ORS 469B.329; and

3       “(b) After completion of the acquisition or performance of the project.

4       “(3) An application for final certification shall be made in writing on a  
5       form prepared by the department and shall contain:

6       “(a) A statement that the conditions of the preliminary certification have  
7       been complied with;

8       “(b)(A) The actual cost of the project attested to by a certified public  
9       accountant who is not an employee of the applicant or the applicant’s com-  
10      pleted audit in compliance with federal Office of Management and Budget  
11      Circular A-133; or

12      “(B) If the actual cost of the project is less than \$50,000, copies of receipts  
13      for acquisition and performance of the project;

14      “(c) The amount of the credit under ORS 315.336 that is to be claimed;

15      “(d) The number and types of jobs, directly connected to the allowance  
16      of the credit, created by the acquisition and performance of the project over  
17      the five-year period beginning on the date of issuance of the preliminary  
18      certification under ORS 469B.329;

19      “(e) Information sufficient to demonstrate that the project will remain in  
20      operation for at least five years, unless the director by rule specifies another  
21      period of operation;

22      “(f) Documentation of compliance with applicable state and local laws and  
23      regulations and licensing and permitting requirements as defined by the di-  
24      rector; and

25      “(g) Any other information determined by the director to be necessary  
26      prior to issuance of a final certificate, including inspection of the project by  
27      the department.

28      “(4) After the filing of the application under this section, the director may  
29      issue the certificate together with any conditions that the director deter-  
30      mines are appropriate to promote the purposes of ORS 315.336 and 469B.320

1 to 469B.347. If the applicant is an entity subject to regulation by the Public  
2 Utility Commission, the director may consult with the commission prior to  
3 issuance of the certificate. The action of the director shall include certi-  
4 fication of the actual cost of the project. However, the director may not  
5 certify an amount for tax credit purposes that is more than the amount of  
6 credit approved in the preliminary certificate issued for the project.

7 “(5) If the director rejects an application for final certification, or certi-  
8 fies a lesser amount of credit than was claimed in the application, the di-  
9 rector shall send to the applicant written notice of the action, together with  
10 a statement of the findings and reasons for the action, by certified mail, be-  
11 fore the 60th day after the filing of the application. Failure of the director  
12 to act constitutes rejection of the application.

13 “(6) Upon approval of an application for final certification of a project,  
14 the director shall certify the project. The final certification shall indicate the  
15 amount of projected energy savings attributable to the project and the cer-  
16 tified cost of the project.

17 “(7) The director may establish by rule timelines and intermediate dead-  
18 lines for submission of application materials.

19 “(8) **The State Department of Energy shall provide information to**  
20 **the Department of Revenue about all certifications issued under this**  
21 **section, if required by section 3 of this 2017 Act.**

22

23 **“CERTIFICATION OF OTHER THAN TRANSFERABLE**

24 **TAX CREDIT PROVISIONS**

25

26 **“SECTION 19.** ORS 315.521, as amended by section 2, chapter 31, Oregon  
27 Laws 2016, is amended to read:

28 “315.521. (1) There shall be allowed a credit against the taxes that are  
29 otherwise due under ORS chapter 316 or, if the taxpayer is a corporation,  
30 under ORS chapter 317 or 318, based on amounts contributed in the tax year

1 to a university venture development fund established under ORS 350.550, to  
2 the extent the university that established the fund issued a tax credit cer-  
3 tificate to the taxpayer.

4 “(2) The total amount of the credit allowed to a taxpayer shall equal 60  
5 percent of the contribution amount stated on the tax credit certificate, but  
6 may not exceed \$600,000.

7 “(3) The credit allowed under this section in any one tax year may not  
8 exceed the tax liability of the taxpayer for the tax year.

9 “(4) Any tax credit otherwise allowable under this section that is not used  
10 by the taxpayer in a particular year may be carried forward and offset  
11 against the taxpayer’s tax liability for the next succeeding tax year. Any  
12 credit remaining unused in such next succeeding tax year may be carried  
13 forward and used in the second succeeding tax year, and likewise, any credit  
14 not used in that second succeeding tax year may be carried forward and used  
15 in the third succeeding tax year, but may not be carried forward for any tax  
16 year thereafter.

17 “(5) In the case of a credit allowed under this section for purposes of ORS  
18 chapter 316:

19 “(a) A nonresident shall be allowed the credit in the same manner and  
20 subject to the same limitations as a resident. However, the credit shall be  
21 prorated using the proportion provided in ORS 316.117.

22 “(b) If a change in the tax year of a taxpayer occurs as described in ORS  
23 314.085 or if the Department of Revenue terminates the taxpayer’s tax year  
24 under ORS 314.440, the credit shall be prorated or computed in a manner  
25 consistent with ORS 314.085.

26 “(c) If a change in the status of a taxpayer from resident to nonresident  
27 or from nonresident to resident occurs, the credit shall be determined in a  
28 manner consistent with ORS 316.117.

29 “(6) A taxpayer claiming a credit under this section shall add to federal  
30 taxable income for Oregon tax purposes any amount that is deducted for

1 federal tax purposes and that also serves as the basis for the credit allowed  
2 under this section.

3 **“(7) All universities that issue tax credit certificates under this**  
4 **section shall provide information to the Department of Revenue about**  
5 **all taxpayers that are eligible for a tax credit under this section, if**  
6 **required by section 3 of this 2017 Act.**

7 **“SECTION 20.** ORS 315.622 is amended to read:

8 “315.622. (1) A resident or nonresident individual who is certified as eli-  
9 gible under ORS 442.561 to 442.570 and who is licensed as an emergency  
10 medical services provider under ORS chapter 682 shall be allowed a credit  
11 against the taxes that are otherwise due under ORS chapter 316 if the Office  
12 of Rural Health certifies that the individual provides volunteer emergency  
13 medical services in a rural area that comprise at least 20 percent of the total  
14 emergency medical services provided by the individual in the tax year.

15 “(2) The amount of the credit shall equal \$250.

16 “(3) A nonresident shall be allowed the credit under this section in the  
17 proportion provided in ORS 316.117. If a change in the status of a taxpayer  
18 from resident to nonresident or from nonresident to resident occurs, the  
19 credit allowed by this section shall be determined in a manner consistent  
20 with ORS 316.117.

21 “(4) As used in this section, ‘rural area’ means a geographic area that is  
22 located at least 25 miles from any city with a population of 30,000 or more.

23 **“(5) The Office of Rural Health shall provide information to the**  
24 **Department of Revenue about all taxpayers that are eligible for a tax**  
25 **credit under this section, if required by section 3 of this 2017 Act.**

26 **“SECTION 21.** ORS 285C.650 is amended to read:

27 “285C.650. (1) A qualified community development entity that seeks to  
28 have an equity investment or long-term debt security certified as a qualified  
29 equity investment and eligible for a tax credit under ORS 315.533 shall apply  
30 to the Oregon Business Development Department. The department shall es-



1 tablish by rule application procedures for applications for certification. The  
2 entity must submit an application on a form that the department provides  
3 that includes:

4 “(a) The entity’s name, address, tax identification number and evidence  
5 of the entity’s certification as a qualified community development entity.

6 “(b) A copy of an allocation agreement executed by the entity, or its  
7 controlling entity, and the Community Development Financial Institutions  
8 Fund that includes the State of Oregon in its service area.

9 “(c) A certificate executed by an executive officer of the entity attesting  
10 that the allocation agreement remains in effect and has not been revoked or  
11 canceled by the Community Development Financial Institutions Fund.

12 “(d) A description of the proposed purchase price, structure and purchaser  
13 of the equity investment or long-term debt security.

14 “(e) The name and tax identification number of any person eligible to  
15 claim a tax credit, under ORS 315.533, allowed as a result of the certification  
16 of the qualified equity investment.

17 “(f) Information regarding the proposed use of proceeds from the issuance  
18 of the qualified equity investment.

19 “(g) A nonrefundable application fee of \$20,000. This fee shall be paid to  
20 the department and shall be required for each application submitted.

21 “(2) Within 15 days after receipt of a completed application containing the  
22 information necessary for the department to certify a proposed equity in-  
23 vestment, including the payment of the application fee, the department shall  
24 grant or deny the application in full or in part. If the department denies any  
25 part of the application, the department shall inform the qualified community  
26 development entity of the grounds for the denial. If the qualified community  
27 development entity provides any additional information required by the de-  
28 partment or otherwise completes its application within 15 days after the no-  
29 tice of denial, the application shall be considered completed as of the  
30 original date of submission. If the qualified community development entity

1 fails to provide the information or complete its application within the 15-day  
2 period, the application remains denied and must be resubmitted in full with  
3 a new submission date.

4 “(3) If the application is deemed complete, the department shall certify the  
5 proposed equity investment or long-term debt security as a qualified equity  
6 investment and eligible for a tax credit under ORS 315.533, subject to the  
7 limitations in ORS 315.536. The department shall provide written notice of  
8 the certification to the qualified community development entity. The notice  
9 shall include the names of those taxpayers who are eligible to utilize the  
10 credits and their respective credit amounts. If the names of the persons or  
11 entities that are eligible to utilize the credits change due to a transfer of a  
12 qualified equity investment or a change in an allocation pursuant to ORS  
13 315.536, the qualified community development entity shall notify the depart-  
14 ment of the change.

15 “(4)(a) Except as provided in paragraph (b) of this subsection, within 60  
16 days after receiving notice of certification, a qualified community develop-  
17 ment entity shall issue the qualified equity investment and receive cash in  
18 the amount of the certified purchase price. The qualified community devel-  
19 opment entity must provide the department with evidence of the receipt of  
20 the cash investment within 10 business days after receipt.

21 “(b) For a qualified equity investment described in ORS 285C.653 (2), a  
22 qualified community development entity shall issue the qualified equity in-  
23 vestment during the period beginning July 1, 2012, and ending 60 days after  
24 receiving notice of certification. If the qualified equity investment is issued  
25 prior to the submission of an application for certification under this section,  
26 the qualified community development entity must provide the department  
27 with evidence of the qualified equity investment and of receipt of the cash  
28 investment at the time of application for certification.

29 “(c) If a qualified community development entity does not receive the cash  
30 investment and issue the qualified equity investment on or before the 60th

1 day following receipt of the certification notice, the certification shall lapse  
2 and the entity may not issue the qualified equity investment without reap-  
3 plying to the department for certification. A certification that lapses reverts  
4 to the department and may be reissued only in accordance with the applica-  
5 tion process outlined in this section.

6 “(5) The department shall certify qualified equity investments in the order  
7 applications are received by the department. Applications received on the  
8 same day shall be deemed to have been received simultaneously. For appli-  
9 cations received on the same day and deemed complete, the department shall  
10 certify, consistent with remaining tax credit capacity, qualified equity in-  
11 vestments in proportionate percentages based upon the ratio of the amount  
12 of qualified equity investment requested in an application to the total  
13 amount of qualified equity investments requested in all applications received  
14 on the same day. If a pending request cannot be fully certified because of the  
15 limitation in ORS 285C.653, the department shall certify the portion that may  
16 be certified unless the qualified community development entity elects to  
17 withdraw its request rather than receive partial credit.

18 “(6) A qualified community development entity that is certified under this  
19 section shall pay an annual evaluation fee of \$1,000 to the department.

20 “(7) The department shall establish by rule procedures to administer the  
21 provisions of this section, including the allocation of tax credits issued for  
22 qualified equity investments.

23 **“(8) The Oregon Business Development Department shall provide**  
24 **information to the Department of Revenue about all certifications is-**  
25 **sued under this section, if required by section 3 of this 2017 Act.**

26 **“SECTION 22.** ORS 285C.656 is amended to read:

27 **“285C.656. (1) The Director of the Oregon Business Development**  
28 **Department may order the suspension or revocation of a certificate**  
29 **or a portion of a certificate issued under ORS 315.533, as provided in**  
30 **section 4 of this 2017 Act.**

1       “~~[(1)]~~ (2) The Department of Revenue may recapture any portion of a tax  
2 credit allowed under ORS 315.533 if:

3       “(a) Any amount of federal tax credit that might be available with respect  
4 to the qualified equity investment that generated the tax credit under ORS  
5 315.533 is recaptured under section 45D of the Internal Revenue Code. The  
6 department’s recapture shall be proportionate to the federal recapture with  
7 respect to the qualified equity investment.

8       “(b) The qualified community development entity redeems or makes a  
9 principal repayment with respect to the qualified equity investment that  
10 generated the tax credit prior to the final credit allowance date of the  
11 qualified equity investment. The department’s recapture shall be propor-  
12 tionate to the amount of the redemption or repayment with respect to the  
13 qualified equity investment.

14       “(c) The qualified community development entity fails to invest at least  
15 85 percent of the purchase price of the qualified equity investment in quali-  
16 fied low-income community investments within 12 months of the issuance of  
17 the qualified equity investment and maintain the same level of investment  
18 in qualified low-income community investments until the last credit allow-  
19 ance date for the qualified equity investment. For purposes of calculating the  
20 amount of qualified low-income community investments held by a qualified  
21 community development entity, an investment shall be considered held by the  
22 entity even if the investment has been sold or repaid provided that the entity  
23 reinvests an amount equal to the capital returned to or recovered from the  
24 original investment, exclusive of any profits realized, in another qualified  
25 active low-income community business in this state within 12 months of the  
26 receipt of the capital. A qualified community development entity may not be  
27 required to reinvest capital returned from qualified low-income community  
28 investments after the sixth anniversary of the issuance of the qualified eq-  
29 uity investment, the proceeds of which were used to make the qualified  
30 low-income community investment, and the qualified low-income community

1 investment shall be considered held by the issuer through the qualified eq-  
2 uity investment's final credit allowance date.

3 “[2] (3) The department shall provide notice to the qualified community  
4 development entity of any proposed recapture of tax credits pursuant to  
5 **subsection (2) of** this section. The entity shall have 90 days to cure any  
6 deficiency indicated in the department's original recapture notice and avoid  
7 the recapture. If the entity fails or is unable to cure the deficiency within  
8 the 90-day period, the department shall provide the entity and the taxpayer  
9 from whom the credit is to be recaptured with a final order of recapture.  
10 Any tax credit for which a final recapture order has been issued shall be  
11 recaptured by the department from the taxpayer who claimed the tax credit  
12 on a tax return.

13 **“SECTION 23.** ORS 315.138 is amended to read:

14 “315.138. (1) There shall be allowed a credit against tax due under ORS  
15 chapter 316, or if the taxpayer is a corporation, under ORS chapter 317, for  
16 taxpayers that install screening devices, by-pass devices or fishways, pursu-  
17 ant to ORS 498.306 or 509.585, and the diversion is not part of a hydroelectric  
18 project required to be licensed under the Federal Energy Regulatory Com-  
19 mission. Except as allowed in subsection (4) of this section, the credit shall  
20 be taken in the tax year in which the final certification is issued under  
21 subsection (10) of this section.

22 “(2) The credit shall be equal to 50 percent of the taxpayer's net certified  
23 costs of installing a screening device, by-pass device or fishway. The total  
24 credit allowed [*shall*] **may** not exceed \$5,000 per device installed.

25 “(3) The credit allowed in any one year [*shall*] **may** not exceed the tax  
26 liability of the taxpayer.

27 “(4) Any tax credit otherwise allowable under this section which is not  
28 used by the taxpayer in a particular tax year may be carried forward and  
29 offset against the taxpayer's tax liability for the next succeeding tax year.  
30 Any credit remaining unused in such next succeeding tax year may be car-

1 ried forward and used in the second succeeding tax year. Any credit re-  
2 maining unused in such second succeeding tax year may be carried forward  
3 and used in the third succeeding tax year. Any credit remaining unused in  
4 such third succeeding tax year may be carried forward and used in the fourth  
5 succeeding tax year. Any credit remaining unused in such fourth succeeding  
6 tax year may be carried forward and used in the fifth succeeding tax year,  
7 but may not be used in any tax year thereafter.

8 “(5) The credit provided by this section shall be in addition to and not in  
9 lieu of any depreciation or amortization deduction to which the taxpayer  
10 otherwise may be entitled with respect to the installation of a screening de-  
11 vice, by-pass device or fishway. The taxpayer’s adjusted basis for determining  
12 gain or loss [*shall*] **may** not be further decreased by any tax credits allowed  
13 under this section.

14 “(6) In the case of a credit allowed under this section for purposes of ORS  
15 chapter 316:

16 “(a) A nonresident shall be allowed the credit in the same manner and  
17 subject to the same limitations as a resident. However, the credit shall be  
18 prorated using the proportion provided in ORS 316.117.

19 “(b) If a change in the [*taxable*] **tax** year of a taxpayer occurs as described  
20 in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s  
21 [*taxable*] **tax** year under ORS 314.440, the credit allowed by this section shall  
22 be prorated or computed in a manner consistent with ORS 314.085.

23 “(c) If a change in the status of a taxpayer from resident to nonresident  
24 or from nonresident to resident occurs, the credit allowed by this section  
25 shall be determined in a manner consistent with ORS 316.117.

26 “(7) To qualify for the credit the taxpayer must be issued a certificate by  
27 the State Department of Fish and Wildlife.

28 “(8) To obtain credit under subsection (1) of this section, any person  
29 proposing to apply for certification of a screening device, by-pass device or  
30 fishway, before installing the screening device, by-pass device or fishway,

1 shall file a request for preliminary certification with the State Department  
2 of Fish and Wildlife. The request shall be in a form prescribed by the State  
3 Department of Fish and Wildlife. The following conditions shall apply:

4 “(a) Within 30 days of the receipt of a request for preliminary certifica-  
5 tion, the State Department of Fish and Wildlife may require, as a condition  
6 precedent to issuance of a preliminary certificate of approval, the submission  
7 of plans and specifications. After examination thereof, the State Department  
8 of Fish and Wildlife may request corrections and revisions to the plans and  
9 specifications. The State Department of Fish and Wildlife may also require  
10 any pertinent information necessary to determine whether the proposed  
11 screening device, by-pass device or fishway is in accordance with State De-  
12 partment of Fish and Wildlife requirements.

13 “(b) If the State Department of Fish and Wildlife determines that the  
14 proposed screening device, by-pass device or fishway is in accordance with  
15 State Department of Fish and Wildlife requirements, it shall issue a prelim-  
16 inary certificate approving the screening device, by-pass device or fishway.  
17 If the State Department of Fish and Wildlife determines that the screening  
18 device, by-pass device or fishway does not comply with State Department of  
19 Fish and Wildlife requirements, the State Department of Fish and Wildlife  
20 shall issue an order denying certification.

21 “(c) If within 90 days of the receipt of plans, specifications or any subse-  
22 quently requested revisions or corrections to the plans and specifications or  
23 any other information required pursuant to this section, the State Depart-  
24 ment of Fish and Wildlife fails to issue a preliminary certificate of approval  
25 and the State Department of Fish and Wildlife fails to issue an order denying  
26 certification, the preliminary certificate shall be considered to have been is-  
27 sued. The capital investment must comply with the plans, specifications and  
28 any corrections or revisions thereto, if any, previously submitted.

29 “(d) Within 30 days from the date of mailing of the order, any person  
30 against whom an order is directed pursuant to paragraph (b) of this sub-

1 section may demand a hearing. The demand shall be in writing, shall state  
2 the grounds for hearing and shall be mailed to the State Fish and Wildlife  
3 Director. The hearing shall be conducted in accordance with the applicable  
4 provisions of ORS chapter 183.

5 “(9) A screening device, by-pass device or fishway that is installed by the  
6 State Department of Fish and Wildlife pursuant to ORS 498.306 (8) in re-  
7 sponse to noncompliance by the person responsible for the water diversion  
8 is not eligible for the credit provided in subsection (1) of this section.

9 “(10) Upon completion and pursuant to application for final certification,  
10 final certification shall be issued by the State Department of Fish and  
11 Wildlife if the screening device, by-pass device or fishway was constructed  
12 and installed in accordance with State Department of Fish and Wildlife re-  
13 quirements. Final certification shall include a statement of the costs of in-  
14 stallation as verified by the State Department of Fish and Wildlife. The  
15 credit allowed under this section shall be claimed first for the tax year of  
16 the taxpayer in which final certification is issued.

17 **“(11) The State Department of Fish and Wildlife shall provide in-**  
18 **formation to the Department of Revenue about all certifications issued**  
19 **under this section, if required by section 3 of this 2017 Act.**

20 **“(12) The State Fish and Wildlife Director may order the suspension**  
21 **or revocation of a certification issued under this section, as provided**  
22 **in section 4 of this 2017 Act.**

23 *“(11) Pursuant to the procedures for a contested case under ORS chapter*  
24 *183, the State Department of Fish and Wildlife may order the revocation of the*  
25 *certificate issued under this section of any taxpayer, if it finds that:]*

26 *“(a) The certificate was obtained by fraud or misrepresentation; or]*

27 *“(b) The holder of the certificate fails to meet State Department of Fish*  
28 *and Wildlife requirements.]*

29 *“(12) As soon as the order of revocation under this section has become final*  
30 *the State Department of Fish and Wildlife shall notify the Department of*



1 *Revenue of such order.]*

2 “[(13) *If the certificate of a screening device, by-pass device or fishway is*  
3 *ordered revoked pursuant to subsection (11) of this section, all prior tax relief*  
4 *provided to the holder of the certificate by virtue of the certificate shall be*  
5 *forfeited and the Department of Revenue shall proceed to collect those taxes*  
6 *not paid by the certificate holder as a result of the tax relief provided to the*  
7 *holder.]*

8 “[(14) *If the certificate of a screening device, by-pass device or fishway is*  
9 *ordered revoked pursuant to subsection (11) of this section, the certificate*  
10 *holder shall be denied any further relief provided under this section in con-*  
11 *nection with the screening device, by-pass device or fishway, as the case may*  
12 *be, from and after the date that the order of revocation becomes final.]*

13 “[~~(15)~~ **(13)** In the event that the screening device, by-pass device or  
14 fishway is destroyed by flood, natural disaster or act of God before all of the  
15 credit has been used, the taxpayer may nevertheless claim the credit as if  
16 no destruction had taken place.

17 “[~~(16)~~ **(14)** Screening devices, by-pass devices or fishways that are fi-  
18 nanced by funds obtained from the Water Development Fund, pursuant to  
19 ORS 541.700 to 541.855, [~~shall not be~~] **are not** eligible for the credit under  
20 any circumstances.

21 “[~~(17)~~ **(15)** The State Department of Fish and Wildlife shall adopt rules  
22 for carrying out the provisions of this section and report to the interim  
23 committee created under ORS 171.605 to 171.640 to make studies of and in-  
24 quiries into state revenue matters.

25 **“SECTION 24.** ORS 315.624 is amended to read:

26 “315.624. (1) A resident or nonresident individual physician licensed under  
27 ORS chapter 677 who is engaged in the practice of medicine qualifies for an  
28 annual credit against the taxes that are otherwise due under ORS chapter  
29 316 if the physician provides medical care to residents of an Oregon  
30 Veterans’ Home.

1       “(2) The amount of the credit allowed under this section shall be equal  
2 to the lesser of:

3       “(a) \$1,000 for every eight residents to whom the physician provides care  
4 at an Oregon Veterans’ Home; or

5       “(b) \$5,000.

6       “(3) The credit allowed under this section may not exceed the tax liability  
7 of the taxpayer for the tax year, and a credit allowed under this section that  
8 is unused may not be carried forward to a succeeding tax year.

9       “(4) A nonresident shall be allowed the credit described in this section in  
10 the proportion provided in ORS 316.117. If a change in the status of a tax-  
11 payer from resident to nonresident or from nonresident to resident occurs,  
12 the credit allowed by this section shall be determined in a manner consistent  
13 with ORS 316.117.

14       “(5) In order to qualify for the tax credit allowed under this section, the  
15 physician claiming the credit [*must submit with the physician’s tax return*]  
16 **must obtain** a letter from the Oregon Veterans’ Home at which the physi-  
17 cian provided care to residents, confirming that the physician missed no  
18 more than five percent of the physician’s scheduled visits with residents of  
19 the home during the tax year, **and must retain the letter with the**  
20 **physician’s tax records.**

21       “(6) In the case of a shareholder of a corporation or a member of a part-  
22 nership, only the care provided by the individual shareholder or partner shall  
23 be considered, and the full amount of the credit shall be allowed to each  
24 shareholder or partner who qualifies in an individual capacity.

25       “(7) The Director of Veterans’ Affairs shall assist the Department of  
26 Revenue in determining if a taxpayer claiming a credit under this section  
27 qualifies for the credit **and shall provide information if required by sec-**  
28 **tion 3 of this 2017 Act to the Department of Revenue about all physi-**  
29 **cians to whom the Oregon Veterans’ Home has issued letters as**  
30 **provided under subsection (5) of this section.**

1       **“(8) The director may order the suspension or revocation of a cer-**  
2 **tificate issued under this section, as provided in section 4 of this 2017**  
3 **Act.**

4       **“SECTION 25.** ORS 329A.706 is amended to read:

5       “329A.706. (1) For the purpose of implementing the program established  
6 under ORS 329A.703, the Early Learning Council, in collaboration with an  
7 advisory committee established by the council and the Office of Child Care,  
8 shall:

9       “(a) Adopt rules.

10       “(b) Identify child care goals that are consistent with the purposes pro-  
11 vided in ORS 329A.703 (2). The goals identified under this paragraph shall  
12 take into account state resources and needs.

13       “(2)(a) The Office of Child Care shall issue tax credit certificates in the  
14 chronological order in which the contributions are received by the office.  
15 The office shall issue tax credit certificates to contributors until the total  
16 value of all certificates issued by the office for the calendar year equals  
17 \$500,000. Each issued certificate shall state the value of the contribution  
18 being certified as eligible for the tax credit allowed under ORS 315.213.

19       “(b) The Office of Child Care may not issue a tax credit certificate to a  
20 taxpayer to the extent the credit value to be certified, when added to the  
21 total credit value previously certified by the office under paragraph (a) of  
22 this subsection for the calendar year exceeds \$500,000.

23       “(c) The Office of Child Care shall send a copy of all tax credit certif-  
24 icates issued under this section to the Department of Revenue.

25       “(d) Qualified contributions shall be deposited in the Child Care Fund.

26       “(3) A taxpayer that receives a notice of denial of a tax credit certificate  
27 or that receives a tax credit certificate issued for an amount that is less than  
28 the amount contributed may request a refund for the amount contributed  
29 within 90 days of the denial or issuance of the certificate by the Office of  
30 Child Care. The Office of Child Care must send notice of a denial or

1 changed amount and refund the amount for which a tax credit will not be  
2 granted within 30 days after receiving the request. The refund shall be made  
3 from the Child Care Fund.

4 “(4) The Early Learning Council may establish by rule any other pro-  
5 visions required to implement the program established under ORS 329A.700  
6 to 329A.718.

7 “(5) **The Office of Child Care shall provide information to the De-**  
8 **partment of Revenue about all tax credit certificates issued under**  
9 **subsection (2) of this section, if required by section 3 of this 2017 Act.**

10 “**SECTION 26.** ORS 348.621 is amended to read:

11 “348.621. (1) An application for tax credit certification shall be filed by  
12 an employer that has obtained program certification under ORS 348.618 or  
13 that has applied for program certification and is awaiting [*such*] **program**  
14 certification by the Executive Director of the Office of Student Access and  
15 Completion.

16 “(2) The application for tax credit certification shall be filed by the em-  
17 ployer with the executive director. The application shall be filed at the time  
18 prescribed by the executive director, but no later than October 1 of the cal-  
19 endar year in which begins the tax year for which a credit under ORS 315.237  
20 will be claimed.

21 “(3) The application shall be filed on a form prescribed by the executive  
22 director and shall contain the information required by the executive director,  
23 including the amount of scholarship moneys the employer has provided or  
24 intends to provide to employees or dependents during the calendar year for  
25 which tax credit certification is being sought and the number of employees  
26 employed by the employer for the calendar year.

27 “(4) The executive director shall consider applications in the chronologi-  
28 cal order in which the applications are received and shall approve applica-  
29 tions to the extent the amount set forth in the application, when added to  
30 the total amount already certified by the executive director for the calendar

1 year under this section, does not exceed \$1 million.

2 “(5) An employer may not receive tax credit certification:

3 “(a) For an amount that is greater than \$1 million;

4 “(b) If the employer employs fewer than four full-time equivalent em-  
5 ployees for the calendar year; or

6 “(c) If the employer employs more than 250 employees for the calendar  
7 year.

8 “(6) The executive director shall send written notice of the amount of the  
9 tax credit certification, or written notice that no amount is being certified,  
10 to the employer [*and to the Department of Revenue*] within 60 days of the date  
11 an application is filed under this section.

12 “(7) The employer shall keep the written certification in the employer’s  
13 records for at least five years and shall furnish the certification to the De-  
14 partment of Revenue if requested.

15 “(8) **The Office of Student Access and Completion shall provide in-**  
16 **formation to the Department of Revenue about all tax credit certif-**  
17 **ications issued under this section, if required by section 3 of this 2017**  
18 **Act.**

19 “(9) **The Executive Director of the Office of Student Access and**  
20 **Completion may order the suspension or revocation of a tax credit**  
21 **certification issued under ORS 348.618, as provided in section 4 of this**  
22 **2017 Act.**

23 “**SECTION 27.** ORS 442.485 is amended to read:

24 “442.485. The responsibilities of the Office of Rural Health shall include  
25 but not be limited to:

26 “(1) Coordinating statewide efforts for providing health care in rural  
27 areas.

28 “(2) Accepting and processing applications from communities interested  
29 in developing health care delivery systems. Application forms shall be de-  
30 veloped by the agency.

1 “(3) Through the agency, applying for grants and accepting gifts and  
2 grants from other governmental or private sources for the research and de-  
3 velopment of rural health care programs and facilities.

4 “(4) Serving as a clearinghouse for information on health care delivery  
5 systems in rural areas.

6 “(5) Helping local health care delivery systems develop ongoing funding  
7 sources.

8 “(6) Developing enabling legislation to facilitate further development of  
9 rural health care delivery systems.

10 **“(7) Providing information to the Department of Revenue about all**  
11 **certifications for tax credits allowed under ORS 315.613, 315.616, 315.619**  
12 **and 315.622, if required by section 3 of this 2017 Act.**

13 **“(8) The Office of Rural Health may order the suspension or revo-**  
14 **cation of a certificate or a portion of a certificate issued under ORS**  
15 **315.613 or 315.622, as provided in section 4 of this 2017 Act.**

16 **“SECTION 28.** ORS 458.690 is amended to read:

17 “458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization se-  
18 lected under ORS 458.695 may qualify as the recipient of account contribu-  
19 tions that qualify the contributor for a tax credit under ORS 315.271 only if  
20 the fiduciary organization structures the accounts to have the following  
21 features:

22 “(a) The fiduciary organization matches amounts deposited by the account  
23 holder according to a formula established by the fiduciary organization. The  
24 fiduciary organization shall maintain on deposit in the account not less than  
25 \$1 nor more than \$5 for each \$1 deposited by the account holder.

26 “(b) The matching deposits by the fiduciary organization to the individual  
27 development account are placed in:

28 “(A) A savings account jointly held by the account holder and the  
29 fiduciary organization and requiring the signatures of both for withdrawals;

30 “(B) A savings account that is controlled by the fiduciary organization

1 and is separate from the savings account of the account holder; or

2 “(C) In the case of an account established for the purpose described in  
3 ORS 458.685 (1)(c), a savings network account for higher education under  
4 ORS 178.300 to 178.355, in which the fiduciary organization is the account  
5 owner as defined in ORS 178.300.

6 “(2) Account holders may not accrue more than \$3,000 of matching funds  
7 under subsection (1) of this section from state-directed moneys in any  
8 12-month period. A fiduciary organization may designate a lower amount as  
9 a limit on annual matching funds. A fiduciary organization shall maintain  
10 on deposit sufficient funds to cover the matching deposit agreements for all  
11 individual development accounts managed by the organization.

12 “(3) The Housing and Community Services Department shall adopt rules  
13 to establish a maximum total amount of state-directed moneys that may be  
14 deposited as matching funds into an individual development account.

15 “(4) **The Housing and Community Services Department shall provide**  
16 **information to the Department of Revenue about all individual devel-**  
17 **opment account contributors that are qualified for a tax credit under**  
18 **ORS 315.271, if required by section 3 of this 2017 Act.**

19

20 **“BIOMASS CREDIT REVOCABILITY**

21

22 **“SECTION 29. Section 15, chapter 29, Oregon Laws 2016, is repealed.**

23

24 **“OPERATIVE AND APPLICABILITY DATES**

25

26 **“SECTION 30. Sections 2 to 4 of this 2017 Act become operative on**  
27 **January 1, 2018.**

28 **“SECTION 31. Sections 2 to 4 of this 2017 Act, the amendments to**  
29 **ORS 285C.650, 285C.656, 315.053, 315.138, 315.141, 315.144, 315.164, 315.169,**  
30 **315.521, 315.622, 315.624, 317.097, 329A.706, 348.621, 442.485, 458.690,**

1 469B.106, 469B.118, 469B.276, 469B.291, 469B.300, 469B.323, 469B.332,  
2 469B.341 and 469B.991 by sections 5 to 28 of this 2017 Act and the repeal  
3 of section 15, chapter 29, Oregon Laws 2016, by section 29 of this 2017  
4 Act apply to tax years beginning on or after January 1, 2018.

5

6

**“CAPTIONS**

7

8 **“SECTION 32. The unit captions used in this 2017 Act are provided**  
9 **only for the convenience of the reader and do not become part of the**  
10 **statutory law of this state or express any legislative intent in the**  
11 **enactment of this 2017 Act.**

12

13

**“EFFECTIVE DATE**

14

15 **“SECTION 33. This 2017 Act takes effect on the 91st day after the**  
16 **date on which the 2017 regular session of the Seventy-ninth Legislative**  
17 **Assembly adjourns sine die.”.**

18

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