

# House Bill 3386

Sponsored by Representative MOORE-GREEN

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates income tax credit for eligible costs of development of single-family owner-occupied housing that sells for price affordable to household with annual income at or below 80 percent of area median income.

Applies to tax years beginning on or after January 1, 2022, and before January 1, 2028.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to tax credits for development of low-income single-family owner-occupied housing; creating  
3 new provisions; amending ORS 314.772 and 318.031; and prescribing an effective date.

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

5 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS**  
6 **chapter 315.**

7 **SECTION 2. (1) As used in sections 2 and 3 of this 2021 Act:**

8 (a) "Eligible costs" means the costs of acquisition, finance costs, permit costs and con-  
9 struction costs with respect to eligible residential property.

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

12 (c) "Qualified price" means a price that is affordable to a household with an annual in-  
13 come at or below 80 percent of the area median income.

14 (d) "Qualified purchaser" means an individual whose household has an annual income at  
15 or below 80 percent of the area median income.

16 (e) For purposes of earning a tax credit under this section, "taxpayer" includes pass-  
17 through and tax-exempt entities.

18 (2) A credit is allowed against the taxes otherwise due under ORS chapter 316, or, if the  
19 taxpayer is a corporation, under ORS chapter 317 or 318, for the development of eligible  
20 residential property for which a certificate of eligibility has been issued under section 3 of  
21 this 2021 Act.

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

26 (4) The credit shall be allowed for eligible costs incurred by the taxpayer with respect to  
27 the eligible residential property, determined using the criteria applicable to housing loans  
28 made under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

29 (5) Any tax credit otherwise allowable under this section that is not used by the taxpayer  
30 in the tax year described in subsection (3) of this section may be carried forward and offset

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

1 against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining  
 2 unused in the next succeeding tax year may be carried forward and used in the second suc-  
 3 ceeding tax year, and any credit not used in the second succeeding tax year may be carried  
 4 forward and used in the third succeeding tax year, but may not be carried forward for any  
 5 succeeding tax year.

6 (6) The credit allowed under this section is not in lieu of any depreciation or amortization  
 7 deduction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or  
 8 318 for the tax year.

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

11 (8)(a) A nonresident shall be allowed the credit under this section in the proportion pro-  
 12 vided in ORS 316.117.

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

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

20 (9) A holder of a certificate of eligibility may transfer the certificate of eligibility to a  
 21 taxpayer subject to tax under ORS chapter 316, 317 or 318, for an amount not less than 90  
 22 percent of the face value of the credit. The transfer must comply with ORS 315.056.

23 (10) The Housing and Community Services Department may order the suspension or re-  
 24 vocation of a certificate of eligibility issued under this section, as provided in ORS 315.061.

25 **SECTION 3.** (1) In order to receive a tax credit under section 2 of this 2021 Act, a tax-  
 26 payer must submit to the Housing and Community Services Department, on a form pre-  
 27 scribed by the department, a claim with respect to each eligible residential property for  
 28 which a credit is claimed.

29 (2) The claim must contain:

30 (a) Evidence showing:

31 (A) That the property is eligible residential property;

32 (B) That the taxpayer submitting the claim has closed on a contract of sale with a qual-  
 33 ified purchaser for the eligible residential property; and

34 (C) The eligible costs for the eligible residential property; and

35 (b) Any other information the department may require.

36 (3)(a) If the department determines that the eligible residential property does not meet  
 37 all the requirements under this section and section 2 of this 2021 Act, the department shall  
 38 deny the application.

39 (b) If the department determines that the eligible residential property meets all the re-  
 40 quirements under this section and section 2 of this 2021 Act, the department shall issue to  
 41 the taxpayer a certificate of eligibility for the tax credit allowable under section 2 of this 2021  
 42 Act. The certificate shall state the approved amount of eligible costs for the eligible resi-  
 43 dential property.

44 (4) Notwithstanding that a certificate of eligibility has been issued to a taxpayer under  
 45 this section, the Department of Revenue may disallow, in whole or in part, a claim for credit

1 under section 2 of this 2021 Act upon the department’s determination that, under the pro-  
 2 visions of section 2 of this 2021 Act, the taxpayer is not entitled to the credit or is entitled  
 3 to only a portion of the amount claimed.

4 (5)(a) The Department of Revenue may adopt rules for carrying out the provisions of this  
 5 section.

6 (b) The Housing and Community Services Department may adopt rules for issuing cer-  
 7 tificates of eligibility under this section and for monitoring taxpayer compliance with this  
 8 section.

9 (6) The Housing and Community Services Department shall provide information to the  
 10 Department of Revenue about all certificates of eligibility issued under this section, if re-  
 11 quired by ORS 315.058.

12 **SECTION 4.** ORS 314.772 is amended to read:

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

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

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

26 (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
 27 credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
 28 316.117, then that provision shall apply to the nonresident shareholder.

29 (5) As used in this section, “business tax credit” means the following credits: ORS 315.104  
 30 (forestation and reforestation), ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141  
 31 (biomass production for biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture  
 32 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS  
 33 315.208 (dependent care facilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee  
 34 and dependent scholarships), ORS 315.271 (individual development accounts), ORS 315.304 (pollution  
 35 control facility), ORS 315.326 (renewable energy development contributions), ORS 315.331 (energy  
 36 conservation projects), ORS 315.336 (transportation projects), ORS 315.341 (renewable energy re-  
 37 source equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation facili-  
 38 ties), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation partnership zones),  
 39 ORS 315.507 (electronic commerce), ORS 315.514 (film production development contributions), ORS  
 40 315.523 (employee training programs), ORS 315.533 (low income community jobs initiative), ORS  
 41 315.593 (short line railroads), ORS 315.640 (university venture development funds), ORS 315.643  
 42 (Opportunity Grant Fund contributions), ORS 315.675 (Trust for Cultural Development Account  
 43 contributions), ORS 317.097 (loans for affordable housing), ORS 317.124 (long term enterprise zone  
 44 facilities), ORS 317.147 (loans for agriculture workforce housing), ORS 317.152 (qualified research  
 45 expenses) and ORS 317.154 (alternative qualified research expenses) and section 9, chapter 774,

1 Oregon Laws 2013 (alternative fuel vehicle contributions), **and section 2 of this 2021 Act (single-**  
2 **family housing).**

3 **SECTION 5.** ORS 318.031 is amended to read:

4 318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
5 317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
6 position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
7 corporated into and made a part of this chapter: ORS 315.104, 315.141, 315.156, 315.176, 315.204,  
8 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523, 315.533, 315.593 and  
9 315.643 **and section 2 of this 2021 Act** (all only to the extent applicable to a corporation) and ORS  
10 chapter 317.

11 **SECTION 6.** Except as provided in section 2 (5) of this 2021 Act, sections 2 and 3 of this  
12 2021 Act apply to tax years beginning on or after January 1, 2022, and before January 1, 2028.

13 **SECTION 7.** This 2021 Act takes effect on the 91st day after the date on which the 2021  
14 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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