

SB 141-1
(LC 2364)
2/25/21 (ASD/ps)

Requested by HOUSE COMMITTEE ON REVENUE (at the request of Representative Nathanson)

**PROPOSED AMENDMENTS TO
SENATE BILL 141**

1 On page 1 of the printed bill, line 2, delete “307.857”.

2 In line 3, delete “and 307.864” and insert “307.841, 307.844, 307.857, 307.858,
3 307.861, 307.864, 307.866 and 307.867”.

4 Delete lines 5 through 29 and delete pages 2 and 3 and insert:

5 **“SECTION 1.** ORS 307.841 is amended to read:

6 “307.841. As used in ORS 307.841 to 307.867:

7 “(1) ‘Construction’ means the development of land and the construction
8 of improvements to land, and may be further defined by the city or county
9 that designated the vertical housing development zone under ORS 307.844.

10 “(2) ‘Displacement’ means a situation in which a household is forced to
11 move from its current residence due to conditions that affect the residence
12 or the immediate surroundings of the residence and that:

13 “(a) A reasonable person would consider to be beyond the household’s
14 ability to prevent or control;

15 “(b) Occur despite the household’s having met all previously imposed
16 conditions of occupancy; and

17 “(c) Make continued occupancy of the residence by the household unaf-
18 fordable, hazardous or impossible.

19 “[~~(3)~~ ‘Equalized floor’ means the quotient determined under ORS 307.857
20 (~~4~~)(b).]”

21 “[~~(4)~~] **(3)** ‘Low income residential housing’ means housing that is re-

1 stricted to occupancy by persons or families whose income is no greater than
2 80 percent of area median income, adjusted for family size, as determined by
3 the Housing and Community Services Department.

4 “[5] (4) ‘Nonresidential use’ means any use that is not exclusively resi-
5 dential use.

6 “[6] (5) ‘Rehabilitation’ means repair or replacement of improvements,
7 including fixtures, or land developments, the cost of which equals at least
8 20 percent of the real market value of the improvements or land develop-
9 ments being repaired or replaced, and may be further defined by the city or
10 county that designated the zone.

11 “[7] (6) ‘Vertical housing development project’ or ‘project’ means the
12 construction or rehabilitation of a multiple-story building, or a group of
13 buildings, including at least one multiple-story building, so that a portion
14 of the project is to be used for nonresidential uses and a portion of the
15 project is to be used for residential uses.

16 “[8] (7) ‘Vertical housing development zone’ or ‘zone’ means an area that
17 has been designated a vertical housing development zone under ORS 307.844.

18 **“SECTION 2.** ORS 307.857 is amended to read:

19 “307.857. (1) Following the designation of a vertical housing development
20 zone under ORS 307.844, a person proposing to undertake a proposed vertical
21 housing development project and seeking the partial property tax exemption
22 set forth in ORS 307.864 [*shall*] **must** apply to the governing body of the city
23 or county that designated the zone for certification of the project. Each
24 phase of a phased development, whether vertical or horizontal, requires a
25 separate application.

26 “(2) The application must be satisfactory to the city or county in form
27 and content and must contain any information required by the city or
28 county, including all of the following:

29 “(a) The address and boundaries of the proposed vertical housing devel-
30 opment project.

1 “(b) A description of the existing state of the property.

2 “(c) A description of the proposed project construction or rehabilitation,
3 including the design of the construction or rehabilitation, the cost of the
4 construction or rehabilitation and the number of floors and residential units
5 to be constructed or rehabilitated.

6 “(d) A description of the nonresidential uses to which any portion of the
7 proposed project is to be put, including the proportion of total square footage
8 of the project proposed for nonresidential uses.

9 “(e) A description of the proposed portion of the project to be used for
10 residential uses, including the proportion of total square footage of the
11 project proposed for residential uses.

12 “(f) A description of the number and nature of residential units in the
13 proposed project that are to be low income residential housing, including the
14 proportion of total square footage of the project proposed for low income
15 residential housing uses.

16 “(g) The [*calculation and allocations described*] **computations made** un-
17 der subsection (4) of this section.

18 “(h) Documentation establishing the costs of construction and rehabili-
19 tation with respect to the project.

20 “(i) A commitment that is satisfactory to the city or county, including
21 documentation and evidence of recording of the documentation, that the
22 project will be maintained and operated in a manner consistent with the
23 application submitted under this section for the duration of the commitment.
24 The duration of the commitment, including the eligibility of units in the
25 project as low income residential housing, may not be less than the number
26 of tax years for which the project is intended to be partially exempt from
27 ad valorem property taxes under ORS 307.864.

28 “(3) For purposes of this section, square footage does not include areas
29 used for parking, patios or porches, unless these areas are demonstrated to
30 the satisfaction of the city or county to be economically necessary to the

1 project or the city or county otherwise determines that it is appropriate to
2 include the areas in square footage.

3 “(4)(a) Each application filed under this section *[shall]* **must** contain
4 *[a calculation of equalized floors, an allocation of equalized floors to residen-*
5 *tial uses and an allocation of equalized floors to low income residential hous-*
6 *ing uses as determined under this subsection.]* **the results of the following**
7 **computations:**

8 “[b] (a) *[An equalized floor is the quotient that results from the division*
9 *of]* **The average floor area of a project equals the** total square footage
10 of *[a]* **the project divided** by the number of *[actual]* floors of the project that
11 are at least 500 square feet *[per floor, or as]* **in area. The minimum area**
12 **of the floors in the divisor** may be increased or otherwise qualified by the
13 city or county by rule.

14 “[c] (b) *[To allocate equalized floors]* **For purposes of determining the**
15 **partial exemption under ORS 307.864, the exemption multiplier for**
16 **square footage dedicated** to residential uses*[, divide]* **shall be determined**
17 **by dividing** the total square footage *[of residential property]* **dedicated to**
18 **residential uses** in the project by the *[square footage of an equalized floor]*
19 **average floor area of the project determined under paragraph (a) of**
20 **this subsection, without rounding this quotient up or down.**

21 “[d] (c)(A) *[To allocate equalized floors]* **For purposes of determining**
22 **the partial exemption under ORS 307.864, the exemption multiplier for**
23 **square footage dedicated** to low income residential housing *[use, divide]*
24 **shall be determined by dividing** the total square footage *[of]* **dedicated to**
25 low income residential housing *[property]* in the project by the *[square*
26 *footage of an equalized floor]* **average floor area of the project determined**
27 **under paragraph (a) of this subsection, without rounding this quotient**
28 **up or down. *[In determining]***

29 “(B) **For purposes of the computation made under this paragraph,**
30 the square footage *[of]* **dedicated to** low income residential housing *[prop-*

1 *erty,]* **shall** include that proportion of the **total** square footage of residential
2 common space **in the project** that [*is the same as*] **equals** the proportion of
3 the total square footage of low income residential housing units **in the**
4 **project** to the total square footage of all residential housing units **in the**
5 **project**.

6 “[*e*)] **(d)** Land that is necessary for a project [*having at least one equal-*
7 *ized floor of low income residential housing may be*] **for which the ex-**
8 **emption multiplier determined under paragraph (c) of this subsection**
9 **equals at least 1.0 shall be** certified for partial exemption **using the same**
10 **exemption multiplier as is used for the property of the project**. Land
11 that is not necessary for [*the*] **a** project may not be certified for partial ex-
12 emption.

13 “(5)(a) For rehabilitation that does not involve displacement of tenants,
14 the application must be filed on or before the date on which the rehabili-
15 tation is complete.

16 “(b) The application must be filed on or before the date on which resi-
17 dential units that are a part of the vertical housing development project are
18 ready for occupancy.

19 “(6) The city or county shall review each application submitted under this
20 section and shall certify or deny certification based on whether the proposed
21 vertical housing development project meets the requirements described in
22 ORS 307.858 and all criteria established by the city or county that are con-
23 sistent with ORS 307.841 to 307.867.

24 “(7) The city or county may request any documentation or undertake any
25 investigation necessary to ascertain the veracity of any statement made on
26 an application under this section.

27 “(8) The certification issued by the city or county [*shall*] **must**:

28 “(a) Identify the property included in the certified vertical housing de-
29 velopment project;

30 “(b) Identify the [*number of equalized floors of residential housing*] **ex-**

1 **exemption multiplier based on the square footage** in the project **dedicated**
2 **to residential uses as computed under subsection (4)(b) of this section**
3 and include a description of the property [*of each equalized floor*] **so dedi-**
4 **cated;**

5 “(c) Identify the [*number of equalized floors of*] **exemption multiplier**
6 **based on the square footage in the project dedicated to** low income res-
7 idential housing [*in the project*] **as computed under subsection (4)(c) of**
8 **this section** and include a description of the property [*of each equalized*
9 *floor*] **so dedicated;** and

10 “(d) Contain any other information prescribed by the city or county.

11 “(9) The determination of the city or county to certify or deny certifica-
12 tion is a discretionary determination. The determination is final and is not
13 subject to judicial or administrative review.

14 “(10) The city or county may charge appropriate fees to offset the cost
15 of administering the application and certification process under this section
16 and any other related costs.

17 **“SECTION 3.** ORS 307.858 is amended to read:

18 “307.858. (1) A city or county may not certify a vertical housing develop-
19 ment project under ORS 307.857 unless the project meets all requirements
20 of this section.

21 “(2) The project must be entirely located within a vertical housing de-
22 velopment zone designated by the city or county with which the application
23 for certification is filed.

24 “(3) The project must [*include one or more equalized floors*] **have and**
25 **maintain an exemption multiplier of at least 1.0 as computed under**
26 **ORS 307.857 (4)(b) or (c).**

27 “(4) Construction or rehabilitation must have been started on each
28 building included in the project, including, but not limited to, additions that
29 expand or enlarge an existing building.

30 “(5)(a) At least 50 percent of the project’s ground floor that fronts on the

1 primary public street must be committed to nonresidential use. If a project
2 has access to only one public street, the square footage of driveways, loading
3 docks, bike storage, garbage receptacles and building entryways shall be ex-
4 cluded before applying the 50 percent test.

5 “(b) For the project’s ground floor to be considered committed to nonres-
6 idential use, all ground floor interior spaces that front on the primary public
7 street must be constructed to building code standards for commercial use or
8 planned for commercial use upon completion.

9 **“SECTION 4.** ORS 307.861 is amended to read:

10 “307.861. (1) Upon determining to certify a vertical housing development
11 project under ORS 307.857, the city or county shall send a copy of the cer-
12 tification to the county assessor of the county in which the project is to be
13 located. The certification must be accompanied by a description of the prop-
14 erty granted partial exemption under ORS 307.864.

15 “(2) At any time after certification and prior to the end of the exemption
16 period, the city or county may:

17 “(a) Request documentation, undertake investigations or otherwise review
18 and monitor the project to ensure ongoing compliance by project applicants
19 and owners.

20 “(b) Undertake any remedial action that the city or county determines to
21 be necessary or appropriate to fulfill the purposes of ORS 307.841 to 307.867,
22 including issuing a notice of decertification directing the county assessor to
23 disqualify all or a portion of a project.

24 “(3)(a) A notice of decertification issued under subsection (2)(b) of this
25 section shall identify:

26 “(A) The property decertified from the vertical housing development
27 project;

28 “(B) The *[number of equalized floors that have ceased qualifying as resi-*
29 *dential housing]* **amount by which the exemption multiplier computed**
30 **under ORS 307.857 (4)(b) for purposes of ORS 307.841 to 307.867 has de-**

1 **creased, if applicable;**

2 “(C) The [*number of equalized floors that have ceased qualifying as low*
3 *income residential housing*] **amount by which the exemption multiplier**
4 **computed under ORS 307.857 (4)(c)** for purposes of ORS 307.841 to 307.867
5 **has decreased, if applicable;**

6 “(D) The remaining [*number of equalized floors of residential housing in*
7 *the project*] **amount of the exemption multiplier computed under ORS**
8 **307.857 (4)(b)** and include a description of the property [*of each remaining*
9 *equalized floor*] **in the project that remains dedicated to residential**
10 **uses; and**

11 “(E) The remaining [*number of equalized floors of low income residential*
12 *housing in the project*] **amount of the exemption multiplier computed**
13 **under ORS 307.857 (4)(c)** and include a description of the property [*of each*
14 *remaining equalized floor of*] **that remains dedicated to** low income resi-
15 dential housing.

16 “(b) The notice of decertification shall include any other information
17 prescribed by the city or county.

18 “(c) The city or county shall send copies of the notice of decertification
19 to the property owner and the county assessor of the county in which the
20 property is located.

21 **“SECTION 5.** ORS 307.864 is amended to read:

22 “307.864. (1) For the first tax year in which, as of the assessment date, a
23 vertical housing development project is occupied or ready for occupancy
24 following certification under ORS 307.857, and for the next nine consecutive
25 tax years:

26 “(a) The property of the vertical housing development project, [*except*
27 *for*] **other than** the land of the project, shall be partially exempt from ad
28 valorem property taxes imposed by local taxing districts, other than the
29 districts that elected not to participate in the vertical housing development
30 zone pursuant to ORS 307.844 (4), [*according to the following schedule and*]

1 as identified in the certification issued under ORS 307.857 (8)[:], **in a per-**
2 **centage equal to the lesser of:**

3 **“(A) 20 percent multiplied by the exemption multiplier for property**
4 **dedicated to residential uses or low income residential housing, as**
5 **computed under ORS 307.857 (4)(b) or (c), respectively; or**

6 **“(B) 80 percent.**

7 *“(A) If the project consists of the equivalent of one equalized floor allo-*
8 *cated to residential housing, the project shall be 20 percent exempt.]*

9 *“(B) If the project consists of the equivalent of two equalized floors allo-*
10 *cated to residential housing, the project shall be 40 percent exempt.]*

11 *“(C) If the project consists of the equivalent of three equalized floors allo-*
12 *cated to residential housing, the project shall be 60 percent exempt.]*

13 *“(D) If the project consists of the equivalent of four or more equalized*
14 *floors allocated to residential housing, the project shall be 80 percent*
15 *exempt.]*

16 **“(b) The land of the vertical housing development project shall be par-**
17 **tially exempt from ad valorem property taxes imposed by local taxing dis-**
18 **tricts, other than the districts that elected not to participate in the vertical**
19 **housing development zone pursuant to ORS 307.844 (4), in the same [per-**
20 **centages] percentage determined under paragraph (a) of this subsection, for**
21 **[each equalized floor allocated] property in the project dedicated to low**
22 **income residential housing, as identified in the certification issued under**
23 **ORS 307.857 (8).**

24 **“(2) In order for the property of a vertical housing development project**
25 **to receive the partial property tax exemption described in subsection (1) of**
26 **this section, the vertical housing development project property owner,**
27 **project applicant or other person responsible for the payment of property**
28 **taxes on the project must notify the city or county that the project is occu-**
29 **ped or ready for occupancy, and the city or county must notify the assessor**
30 **of the county in which the project is located, in the manner set forth in ORS**

1 307.512, that the project is occupied or ready for occupancy and has been
2 certified under ORS 307.857.

3 **“SECTION 6.** ORS 307.866 is amended to read:

4 “307.866. (1)(a) During the period in which property of a vertical housing
5 development project would otherwise be partially exempt under ORS 307.864
6 (1)(a), if all or a portion of the project has been decertified under ORS
7 307.861, the property is disqualified from **partial** exemption [*in proportion to*
8 *the equivalent of each equalized floor that has ceased qualifying as residential*
9 *housing*] **to the extent of the decrease in the exemption multiplier**
10 **identified under ORS 307.861 (3)(a)(B) or (C) for property in the project**
11 **dedicated to residential uses or low income residential housing, re-**
12 **spectively**, as set forth in the notice of decertification.

13 “(b) During the period in which the land of a vertical housing develop-
14 ment project would otherwise be partially exempt under ORS 307.864 (1)(b),
15 if all or a portion of the project has been decertified under ORS 307.861, the
16 land is disqualified from **partial** exemption [*in proportion to the equivalent*
17 *number of equalized floors that have ceased qualifying as*] **to the same ex-**
18 **tent as property in the project dedicated to low income residential**
19 **housing is disqualified**, as [*set forth in the notice of decertification*] **deter-**
20 **mined under paragraph (a) of this subsection.**

21 “(2) Notwithstanding ORS 307.864, there shall be added to the general
22 property tax roll for the tax year next following decertification described in
23 subsection (1) of this section, to be collected and distributed in the same
24 manner as other real property tax, an amount equal to the difference between
25 the taxes assessed against the property and land granted **partial** exemption
26 under ORS 307.864 and the taxes that would have been assessed against the
27 property and land but for the **partial** exemption for each of the years, not
28 to exceed the last 10 years, during which the property and land were **par-**
29 **tially** exempt from taxation under ORS 307.864.

30 “(3) Notwithstanding ORS 307.864, if, after a period of **partial** exemption

1 under ORS 307.864 has terminated, the city or county that designated the
2 zone in which the project is located discovers that the property or land of
3 a vertical housing development project was granted **partial** exemption to
4 which the project was not entitled, additional taxes may be collected as
5 provided in subsection (2) of this section, except that the number of years for
6 which the additional taxes may be collected shall be reduced by one year for
7 each year that has elapsed since the year the property or land was last
8 granted **partial** exemption, beginning with the earliest year for which addi-
9 tional taxes are due.

10 “(4) The assessment and tax rolls shall show potential additional tax li-
11 ability for all property and land granted **partial** exemption under ORS
12 307.864.

13 “(5) Additional taxes collected under this section shall be deemed to have
14 been imposed in the year to which the additional taxes relate.

15 **“SECTION 7.** ORS 307.844 is amended to read:

16 “307.844. (1)(a) A city may designate an area within the city as a vertical
17 housing development zone.

18 “(b) A county may designate as a vertical housing development zone an
19 area that is subject to a goal exception for residential use approved under
20 ORS 197.732.

21 “(2) With the prior consent of the governing body of each city in which
22 a proposed vertical housing development zone is to be located, a county may
23 designate any area within each city that has given consent for vertical
24 housing development zone designation as a vertical housing development
25 zone.

26 “(3) A city and a county, or any combination of cities and counties, may
27 designate an area within each jurisdiction as a vertical housing development
28 zone.

29 “(4) A local taxing district may elect not to participate in a vertical
30 housing development zone. A local taxing district that elects not to partic-

1 ipate may continue to impose taxes on property otherwise exempt from ad
2 valorem property tax under ORS 307.864.

3 “(5) A city or county must consider the potential for displacement of
4 households within a proposed vertical housing development zone before des-
5 ignating the zone.

6 “(6)(a) Before designating a vertical housing development zone, a city or
7 county, as applicable, must notify the local taxing districts, other than the
8 city or county, that have territory in the proposed vertical housing develop-
9 ment zone of the city’s or county’s intention to designate a vertical housing
10 development zone.

11 “(b) The notice required under paragraph (a) of this subsection must be
12 sent by regular mail and must:

13 “(A) Describe the proposed vertical housing development zone;

14 “(B) Explain the **partial** exemption described in ORS 307.864 that would
15 apply if the proposed zone is designated; and

16 “(C) Explain the process by which a local taxing district may elect not
17 to participate in the vertical housing development zone.

18 “(c) Notice of the election of a district listed in ORS 198.010 or 198.180
19 not to participate in the vertical housing development zone must be received
20 by the city or county, as applicable, within 30 days after the district receives
21 the notice required under paragraph (a) of this subsection.

22 “(7)(a) Not sooner than 60 days after sending the notice required under
23 subsection (6)(a) of this section, the governing body of the city or county
24 that seeks to designate a vertical housing development zone may adopt an
25 ordinance or resolution designating the vertical housing development zone
26 and describing the area and boundaries of the zone. The ordinance or resol-
27 ution may include additional criteria for certification of a vertical housing
28 development project that do not conflict with the requirements described in
29 ORS 307.858.

30 “(b) As soon as practicable after adopting the ordinance or resolution

1 designating the zone, the governing body shall notify the assessor of the
2 county in which the zone is located of the designation of the zone and the
3 districts that elected not to participate in the zone.

4 **“SECTION 8.** ORS 307.867 is amended to read:

5 “307.867. (1) A city or county that designates a vertical housing develop-
6 ment zone under ORS 307.844 may terminate the zone at any time.

7 “(2) The termination of a zone under this section does not affect the
8 **partial** exemption from tax under ORS 307.864 of any property of a vertical
9 housing development project that was certified under ORS 307.857 prior to
10 the termination of the zone and that continues to qualify for the **partial**
11 exemption at the time of the termination of the zone.

12 **“SECTION 9. The amendments to ORS 307.841, 307.844, 307.857,**
13 **307.858, 307.861, 307.864, 307.866 and 307.867 by sections 1 to 8 of this 2021**
14 **Act apply to property tax years beginning on or after July 1, 2021.**

15 **“SECTION 10. This 2021 Act takes effect on the 91st day after the**
16 **date on which the 2021 regular session of the Eighty-first Legislative**
17 **Assembly adjourns sine die.”.**

18
