

HB 2064 / SB 142

Property Tax Exemption: Transfer of Cemetery Land for Low-Income Housing

Joint Committee on Tax Expenditures

LRO | 3/10/2023



Housing Supply

- EO 23-02 declares a State of Emergency due to homelessness in parts of the state that saw a large jump in homelessness over the last five years.
- EO 23-04 sets statewide housing production goal of building 36,000 new homes per year.
- EO 23-03 supports the other two orders by directing state agencies to prioritize addressing and reducing homelessness.





Many state tax expenditures address housing supply, mostly property tax

Many tax expenditures address housing supply. For example:

Income Tax

- Farmworker Housing Lender's Credit (TER 1.412)
- Agriculture Workforce Housing Construction (TER 1.413)
- Oregon Affordable Housing Lender's Credit (TER 1.426)

Property Tax

Full Exemption

- Land Owned by Nonprofit for Purpose of Building Low-Income Housing (TER 2.008)
- Housing Authority Rental Properties (TER 2.020)
- Local Government Owned Low-income Housing (TER 2.021)
- **Transfer of Cemetery Land for Low Income Housing (TER 2.022)**
- Low-income Housing Owned by Religious Organization (TER 2.032)

Partial Exemption

- Vertical Housing Development Zone (2.102)
- Certain Single-Unit Housing (TER 2.103)
- Rehabilitated Housing (TER 2.104)

(continued)

- Multi-Unit Rental Housing in Designated Areas (TER 2.105)
- Low Income Multi-Unit Rental Housing (TER 2.106)
- Property for Low Income Rental (TER 2.107)
- Nonprofit Low Income Rental Housing (2.108)
- New or Rehabilitated Multi-Unit Rental Housing (2.109)
- Home Share Program Low-Income Housing (2.110)
- Veterans in Nonprofit Elderly Housing (TER 2.112)
- Workforce Housing (TER 2.113)
- Affordable Housing Covenant (TER 2.114)

Special Assessment

- Use-Restricted Multi-Unit Rental Housing (TER 2.125)
- Nonprofit Housing for the Elderly (TER 2.126)

Corporate Activity Tax

- Manufactured Dwelling Cooperatives (TER 9.002)
- Subcontractor Labor Payments for Residential Construction (TER 9.003)

*Note: this may not be an exhaustive list





Related Direct Spending Programs

- **Agency Program:**
 - Land Acquisition Revolving Loan Fund
 - Land/Property Acquisition funding
- **2021-23 LAB Budget (Amounts by Fund Types):** \$40 million General Fund was approved for land and property acquisition purposes during the 2021-23 biennium, on a one-time basis
- **Agency Program Description/Comments:** \$30 million funding attributable to capitalization of revolving loan fund, repayments to which will allow future loans for this purpose. Land and property acquisition funding provides a source of capital for low-income housing developers to acquire property on which affordable housing will be developed





Current Property Tax Exemption

Purpose of tax exemption: “to eliminate the potential tax burden when transferring property from cemetery to low income housing use, thereby encouraging such practice”

- Tax exemption created by HB 4028 (2018),
 - No specific sunset in 4028, implicit sunset due to ORS 315.037 which establishes 6-year sunset if none is prescribed
 - Current sunset of 6/30/2024, last applicable tax year 2023-24
- Current use of exemption
 - No known use





Current Property Tax Exemption (cont.)

Property tax exemption for cemeteries, burial grounds, mausoleums

- Cemeteries are generally exempt from property taxes including lands used or held exclusively for cemetery purposes
- When cemetery land ceases to be used or held exclusively for cemetery or crematory purposes, up to 10 years of back taxes become due





Current Property Tax Exemption (cont.)

Transfer to low-income housing exemption

- 10 years of back taxes are waived if...
 - Cemetery/crematory property used or held for use under two existing low-income housing property tax exemptions
 - Property for low-income rental (2.107), nonprofit low-income rental housing (2.108)
 - Must be used as qualified low-income housing for 10 years, or back taxes become due
 - After 10 years as low-income housing, back taxes are waived permanently
- Who benefits: At time of deed recording of cemetery property sale, owner of land files notice of intent (with county and possibly city) to take advantage of this exemption provision





What SB 142 Does

- **Sunset:** Moves sunset of Cemetery Land property tax exemption from June, 30 2024 to June 30, 2030
- **Grandfathering:** Those that qualify prior to sunset, continue to qualify so long as qualifying conditions are met





Policy Considerations

- Cost of keeping an exemption with no known usage on the books
- For an exemption with an implicit sunset, establishing an explicit sunset helps clarify to the public when an exemption may end.
- Grandfathering may be appropriate where the exemption is granted for multiple years and it will sunset. This prevents a benefit/exemption cliff at sunset.



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