

A-Engrossed
House Bill 2980

Ordered by the House April 7
Including House Amendments dated April 7

Sponsored by Representative MARSH, Senator ANDERSON; Representatives EVANS, FAHEY, GAMBA, Senator GOLDEN (Pre-session filed.)

SUMMARY

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

Authorizes cities and counties to adopt program for awarding grants to developers of affordable housing and moderate income housing projects to finance certain costs associated with such housing projects.

Directs [_____] **Oregon Business Development** Department to develop [*affordable housing*] revolving loan program [*under which*] **to make interest-free loans** to participating cities and counties [*may award*] **to fund grants** [*to housing developers for certain eligible costs and repay loans from tax increment financing revenues derived from increase in value of housing project property*] **awarded under local option housing project grant program.**

Exempts housing project property to which grant award relates from ad valorem property taxes.

Imposes annual fee on developer of housing project in amount equal to incremental increase in property taxes, determined by subtracting taxes assessed before housing project is completed from estimated taxes to be assessed after project is completed. Increases fee by three percent for each subsequent property tax year.

Provides for distribution of annual fee moneys first to fire districts in estimated amount of taxes on exempted housing project property and then to department in repayment of loan that funded grant awarded to developer for related housing project.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax increment financing outside urban renewal areas; and prescribing an effective date.

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

4 **SECTION 1. As used in sections 1 to 12 of this 2023 Act:**

5 (1) **“Assessor,” “tax collector” and “treasurer” mean the individual filling that county**
6 **office so named or any county officer performing the functions of the office under another**
7 **name.**

8 (2) **“County tax officers” and “tax officers” mean the assessor, tax collector and treas-**
9 **urer of a county.**

10 (3) **“Eligible costs” means the following costs associated with an eligible housing project:**

11 (a) **System development charges;**

12 (b) **Predevelopment costs;**

13 (c) **Construction costs;**

14 (d) **Site-specific infrastructure; and**

15 (e) **Land write-downs.**

16 (4) **“Eligible housing project” means a project to construct housing, or to convert a**
17 **building from a nonresidential use to housing, that is:**

18 (a) **If for-sale property, a single-family dwelling, middle housing as defined in ORS 197.758**

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 or a multifamily dwelling affordable at initial sale to households with an annual income not
2 greater than 120 percent of the area median income; or

3 (b) If rental property:

4 (A) Middle housing as defined in ORS 197.758;

5 (B) A multifamily dwelling;

6 (C) An accessory dwelling unit as defined in ORS 215.501; or

7 (D) Any other form of affordable housing or moderate income housing.

8 (5) "Eligible housing project property" means the taxable real and personal property
9 constituting the improvements of an eligible housing project.

10 (6) "Fire district taxes" means property taxes levied by fire districts within whose terri-
11 tory all or a portion of eligible housing project property is located.

12 (7) "Nonexempt property" means property other than eligible housing project property
13 in the tax account that includes the eligible housing project property.

14 (8) "Nonexempt taxes" means the ad valorem property taxes assessed on nonexempt
15 property.

16 (9) "Sponsoring jurisdiction" means:

17 (a)(A) A city with respect to eligible housing projects located within the city boundaries;
18 or

19 (B) A county with respect to eligible housing projects located in urban unincorporated
20 areas of the county; or

21 (b) The governing body of a city or county described in paragraph (a) of this subsection.

22 **SECTION 2.** (1) A sponsoring jurisdiction may adopt by ordinance or resolution a pro-
23 gram under which the sponsoring jurisdiction awards grants to developers for eligible costs.

24 (2) The ordinance or resolution shall set forth:

25 (a) The kinds of eligible housing projects for which a developer may seek a grant under
26 the program;

27 (b) Any definition of "affordable housing" or "moderate income housing" the sponsoring
28 jurisdiction intends to apply to eligible housing projects; and

29 (c) Any eligibility requirements to be imposed on projects and developers in addition to
30 those required under sections 1 to 12 of this 2023 Act.

31 (3) A grant award:

32 (a) May not exceed the maximum principal amount of the loan to which the grant award
33 relates, as determined under section 7 (2)(a) of this 2023 Act, made to a sponsoring jurisdic-
34 tion under section 4 of this 2023 Act.

35 (b) May include reimbursement for eligible costs incurred for up to 12 months preceding
36 the date on which the eligible housing project received local site approval.

37 (4) Eligible housing project property for which a developer receives a grant for eligible
38 costs may not be granted any exemption, partial exemption or special assessment of ad
39 valorem property taxes other than the exemption granted under section 8 of this 2023 Act.

40 **SECTION 3.** (1)(a) A sponsoring jurisdiction that adopts a grant program pursuant to
41 section 2 of this 2023 Act shall prescribe an application process, including forms and dead-
42 lines, by which developers of eligible housing projects may apply for a grant.

43 (b) An application for a grant must include, at a minimum:

44 (A) A description of the eligible housing project;

45 (B) An itemized description of the eligible costs for which the grant is sought;

1 (C) The amount of the grant sought;

2 (D) The proposed schedule for completion of the eligible housing project;

3 (E) A project pro forma on a form provided to the sponsoring jurisdiction by the Oregon
4 Business Development Department that demonstrates that the project is economically fea-
5 sible only with the grant moneys; and

6 (F) Any other information, documentation or attestation that the sponsoring jurisdiction
7 considers necessary or convenient for the application review process.

8 (c) Applications shall be reviewed on a first-come, first-served basis.

9 (2)(a) Within 30 days following the receipt of an application from a developer, the spon-
10 soring jurisdiction shall:

11 (A) Review the application;

12 (B) Request that the county tax officers provide to the sponsoring jurisdiction and the
13 department the information necessary to making the determinations under section 7 (2) of
14 this 2023 Act;

15 (C) Use the information provided under subparagraph (B) of this paragraph to determine,
16 under section 7 (2)(a) of this 2023 Act, the maximum principal amount of a loan that may
17 be made to the sponsoring jurisdiction under section 4 of this 2023 Act;

18 (D) Review and revise, if appropriate, the maximum grant amount for which the eligible
19 housing project is eligible; and

20 (E)(i) Recommend approval of the application as submitted;

21 (ii) Recommend approval for a grant amount other than the amount sought in the ap-
22 plication; or

23 (iii) Reject the application.

24 (b) The sponsoring jurisdiction may consult with the developer about the application, and
25 the developer, after such consultation, may amend the application on or before a deadline
26 set by the sponsoring jurisdiction.

27 (3) The sponsoring jurisdiction shall:

28 (a) Forward recommended applications to the Oregon Business Development Department
29 for review under section 4 of this 2023 Act; and

30 (b) Notify applicants of:

31 (A) The sponsoring jurisdiction's recommendations; and

32 (B) The further review of applications by the department under section 4 of this 2023 Act.

33 **SECTION 4.** (1)(a) The Oregon Business Development Department shall develop a pro-
34 gram to make loans to sponsoring jurisdictions to fund grants made under the sponsoring
35 jurisdiction's grant program adopted pursuant to section 2 of this 2023 Act.

36 (b) The loans shall be interest free for a term not to exceed 10 years.

37 (2) Within 30 days following the receipt of a recommended application forwarded by the
38 sponsoring jurisdiction under section 3 (3) of this 2023 Act, the department shall:

39 (a) Review the recommended application for:

40 (A) Compliance with the provisions of sections 1 to 12 of this 2023 Act; and

41 (B) The accuracy of the amounts computed under section 7 (2) of this 2023 Act;

42 (b) Make a final decision to:

43 (A) Approve the application;

44 (B) Approve the application for a grant amount other than the amount recommended by
45 the sponsoring jurisdiction; or

1 (C) Reject the application; and

2 (c) Notify the sponsoring jurisdiction and each applicant of the department's final deci-
3 sion.

4 (3) For each application the department approves, the department shall:

5 (a) Enter into a loan agreement with the sponsoring jurisdiction in the amount of the
6 grant approved for the application; and

7 (b) Pay to the sponsoring jurisdiction the loan proceeds out of the Housing Project Re-
8 volving Loan Fund established under section 12 of this 2023 Act.

9 (4) In addition to the payment made under subsection (3)(b) of this section, the depart-
10 ment shall pay out of the fund, with respect to each loan:

11 (a) An amount equal to one percent of the loan proceeds to the sponsoring jurisdiction
12 to reimburse the sponsoring jurisdiction for the costs of administering the grant program,
13 other than the costs of tax administration;

14 (b) An amount equal to one percent of the loan proceeds to the county that is the spon-
15 soring jurisdiction, or the county in which the city that is the sponsoring jurisdiction is sit-
16 uated, to reimburse the county for the costs of the tax administration of the grant program
17 by the county tax officers; and

18 (c) A reimbursement to the department for its actual costs incurred in administering
19 sections 1 to 12 of this 2023 Act.

20 (5) The department may adopt any rule it considers necessary or convenient for admin-
21 istering sections 1 to 12 of this 2023 Act.

22 **SECTION 5.** (1)(a) Upon entering into a loan agreement with the Oregon Business De-
23 velopment Department under section 4 of this 2023 Act, a sponsoring jurisdiction shall offer
24 a grant agreement to each developer whose application was approved including a grant award
25 in an amount equal to the loan proceeds received by the sponsoring jurisdiction for the eli-
26 gible housing project to which the grant agreement relates.

27 (b) The rejection of an application and the amount of a grant award may not be appealed,
28 but a developer may reapply for a grant at any time within the stated deadlines of the grant
29 program for the same or another eligible housing project.

30 (c) The grant agreement shall contain such terms as are:

31 (A) Approved by the department;

32 (B) Required under sections 1 to 12 of this 2023 Act;

33 (C) Agreed to by the sponsoring jurisdiction and the developer; and

34 (D) Included by the sponsoring jurisdiction to enforce the affordability provisions of the
35 grant agreement.

36 (2) Upon entering into a grant agreement with a developer, a sponsoring jurisdiction shall
37 adopt an ordinance or resolution setting forth the details of the eligible housing project that
38 is the subject of the agreement, including, but not limited to:

39 (a) A description of the eligible housing project;

40 (b) An itemized description of the eligible costs;

41 (c) The amount and terms of the grant award;

42 (d) Written notice that the eligible housing project property is exempt from property
43 taxation in accordance with section 8 of this 2023 Act; and

44 (e) A statement declaring that the grant has been awarded in response to the housing
45 needs of communities within the sponsoring jurisdiction.

1 (3) As soon as practicable after the ordinance or resolution required under subsection (2)
2 of this section becomes effective, the sponsoring jurisdiction shall distribute the loan pro-
3 ceeds received from the department under section 4 (3)(b) of this 2023 Act to the developer
4 as the grant moneys awarded under this section.

5 (4) The sponsoring jurisdiction shall forward a copy of the grant agreement, the ordi-
6 nance or resolution and any other material the sponsoring jurisdiction considers important
7 to the Oregon Business Development Department and the tax officers of the county in which
8 the eligible housing project is located.

9 **SECTION 6.** (1) Repayment of loans made under section 4 of this 2023 Act shall begin, in
10 accordance with section 9 of this 2023 Act, after completion of the eligible housing project
11 funded by the grant to which the loan relates.

12 (2)(a) The sponsoring jurisdiction shall determine the date of completion of an eligible
13 housing project.

14 (b)(A) If an eligible housing project is completed before July 1 of the assessment year,
15 repayment shall begin with the property tax year that begins on July 1 of the assessment
16 year.

17 (B) If an eligible housing project is completed on or after July 1 of the assessment year,
18 repayment shall begin with the property tax year that begins on July 1 of the following as-
19 sessment year.

20 (c) After making the determination under paragraph (b) of this subsection, the sponsor-
21 ing jurisdiction shall notify the Oregon Business Development Department and the county
22 tax officers of the determination.

23 (3) A loan shall remain outstanding until the loan is repaid in full.

24 **SECTION 7.** (1) Upon receipt of the information requested from county tax officers under
25 section 3 (2)(a)(B) of this 2023 Act, the sponsoring jurisdiction shall:

26 (a) For the property tax year in which a grant application is received under section 3 of
27 this 2023 Act:

28 (A) Determine the amount of property taxes assessed against the tax account that in-
29 cludes the eligible housing project property; and

30 (B) Subtract the amount of fire district taxes from the amount determined under sub-
31 paragraph (A) of this paragraph.

32 (b) For the first property tax year for which the completed eligible housing project
33 property is estimated to be taken into account:

34 (A) Determine the estimated amount of property taxes that will be assessed against the
35 tax account; and

36 (B) Subtract the estimated amount of fire district taxes from the amount determined
37 under subparagraph (A) of this paragraph.

38 (2)(a) The maximum principal amount of a loan made to a sponsoring jurisdiction under
39 section 4 of this 2023 Act and the amount of a grant award made to a developer under section
40 5 of this 2023 Act out of the loan proceeds shall equal, for each respective eligible housing
41 project, the product of:

42 (A) The increment that results from subtracting the amount determined under sub-
43 section (1)(a) of this section from the amount determined under subsection (1)(b) of this
44 section; and

45 (B) The term of the loan.

1 (b) The amount of the annual fee charged to a developer under section 9 of this 2023 Act
2 for the first year shall equal the difference determined under paragraph (a)(A) of this sub-
3 section.

4 (c) As soon as practicable after determining amounts under this subsection, the spon-
5 soring jurisdiction shall provide written notice to the Oregon Business Development De-
6 partment and the county tax officers certifying the amounts.

7 **SECTION 8.** (1) Upon receipt of the copy of a grant agreement and ordinance or resol-
8 ution from the sponsoring jurisdiction under section 5 (4) of this 2023 Act, the assessor of
9 the county in which the eligible housing project property is located shall:

10 (a) Exempt the eligible housing project property in accordance with this section;

11 (b) Assess and tax the nonexempt property in the tax account as other similar property
12 is assessed and taxed; and

13 (c) Submit a written report to the sponsoring jurisdiction and the Oregon Business De-
14 velopment Department setting forth the assessor's estimate of the amount of:

15 (A) The real market value of the exempt eligible housing project property; and

16 (B) The property taxes on the exempt eligible housing project property that would have
17 been collected if the property were not exempt.

18 (2)(a) The exemption shall first apply to the property tax year that immediately succeeds
19 the effective date of the ordinance or resolution adopted by the sponsoring jurisdiction under
20 section 5 (2) of this 2023 Act.

21 (b) The eligible housing project property shall be disqualified from the exemption on the
22 earliest of:

23 (A) July 1 of the property tax year immediately succeeding the date on which the loan
24 that relates to the eligible housing project is repaid in full;

25 (B) The date on which foreclosure proceedings are commenced as provided by law for
26 delinquent taxes assessed on the nonexempt property;

27 (C) The date on which the annual fee imposed on the developer under section 9 of this
28 2023 Act becomes delinquent; or

29 (D) The date on which a condition specified in section 11 (1) of this 2023 Act occurs.

30 (c) After the eligible housing project property has been disqualified from the exemption
31 under this subsection, the property shall be assessed and taxed as other similar property is
32 assessed and taxed.

33 (3) For each tax year that the eligible housing project property is exempt from taxation,
34 the assessor shall enter a notation on the assessment roll stating:

35 (a) That the property is exempt under this section; and

36 (b) The presumptive number of property tax years for which the exemption is granted,
37 which shall be the term of the loan agreement relating to the eligible housing project.

38 **SECTION 9.** (1)(a) The developer whose eligible housing project property has been granted
39 exemption under section 8 of this 2023 Act shall pay an annual fee in repayment of the loan
40 made under section 4 of this 2023 Act with respect to the eligible housing project.

41 (b) The fee shall be payable for the lesser of 10 consecutive property tax years or until
42 the loan is retired as determined under section 6 (3) of this 2023 Act.

43 (2)(a) The amount of the fee for the first property tax year that the loan is outstanding
44 shall be the amount determined under section 7 (2)(b) of this 2023 Act.

45 (b) For each subsequent property tax year, the amount of the fee shall be 103 percent

1 of the amount of the fee for the preceding property tax year.

2 (3)(a) The sponsoring jurisdiction shall provide written notice to the Oregon Business
3 Development Department of each fee amount that will be due from developers with respect
4 to eligible housing projects located in the sponsoring jurisdiction.

5 (b) Not later than July 15 of each property tax year during which any loan remains out-
6 standing, the department shall aggregate by county all notices that the department has re-
7 ceived under this subsection and section 7 (2) of this 2023 Act on or after July 16 of the
8 previous property tax year and notify the tax officers of each county of the total and indi-
9 vidual amounts of annual fees related to eligible housing projects located in the county for
10 the current assessment year.

11 (4)(a) The assessor shall place on the tax statement of each tax account that includes
12 exempt eligible housing project property:

13 (A) The values and taxes assessed on the nonexempt property; and

14 (B) The amount of the fee imposed on the developer with respect to the eligible housing
15 project property.

16 (b) The treasurer shall distribute the total aggregate fee moneys to the department.

17 (5) The department shall:

18 (a) Estimate the amount of fire district taxes that would have been collected on eligible
19 housing project property if the property were not exempt;

20 (b) Distribute the amounts determined under paragraph (a) of this subsection to the re-
21 spective fire districts out of the fee moneys; and

22 (c) Deposit the net fee moneys in the Housing Project Revolving Loan Fund established
23 under section 12 of this 2023 Act in repayment of the loans to which the fees relate.

24 (6) The sponsoring jurisdiction may repay any loan early.

25 (7) Property taxes assessed on nonexempt property shall be distributed in the same
26 manner as other property taxes are distributed.

27 **SECTION 10.** (1) Not later than August 1 of each year in which a grant agreement en-
28 tered into under section 5 of this 2023 Act is in effect, the developer that is party to the
29 agreement shall submit a report to the sponsoring jurisdiction and the Oregon Business
30 Development Department that contains:

31 (a) The status of the construction or conversion of the eligible housing project property,
32 including an estimate of the date of completion;

33 (b) An itemized description of the uses of the grant moneys; and

34 (c) Any information the sponsoring jurisdiction or the department considers important
35 for evaluating the eligible housing project and the developer's performance under the terms
36 of the grant agreement.

37 (2) Not later than September 15 of each year in which a grant agreement is in effect, the
38 department shall submit, in the manner required under ORS 192.245, a report summarizing
39 the information received from developers pursuant to subsection (1) of this section, and the
40 repayment status of all outstanding loans, to the interim committees of the Legislative As-
41 ssembly related to housing.

42 **SECTION 11.** (1)(a) A developer that received a grant award under section 5 of this 2023
43 Act shall become liable for immediate payment to the Oregon Business Development De-
44 partment of the outstanding annual fee payments imposed under section 9 of this 2023 Act
45 for the remaining term of the loan to which the fee relates if:

1 (A) The developer has not completed the eligible housing project within three years fol-
2 lowing the date on which the grant moneys were distributed to the developer;

3 (B) The eligible housing project changes substantially from the project for which the
4 developer's application was approved such that the project would not have been eligible for
5 the grant; or

6 (C) The developer has not complied with a requirement specified in the grant agreement.

7 (b) The sponsoring jurisdiction may, in its sole discretion, extend the date on which the
8 eligible housing project must be completed.

9 (2) The county tax officers shall distribute amounts collected under this section in the
10 same manner as annual fee payments are distributed under section 9 of this 2023 Act.

11 (3) Any and all amounts required to be paid under this section shall be considered to be
12 liquidated and delinquent, and the Oregon Business Development Department shall assign
13 such amounts to the Department of Revenue for collection as provided in ORS 293.250.

14 (4) If the sponsoring jurisdiction or the Oregon Business Development Department dis-
15 covers that a developer willfully made a false statement or misrepresentation or willfully
16 failed to report a material fact to obtain a grant, the Oregon Business Development De-
17 partment may add to the amount the developer is obligated to pay a penalty not to exceed
18 20 percent of the amount of the grant so obtained, plus any applicable interest and fees as-
19 sociated with the Department of Revenue's costs of collection.

20 (5) Subject to ORS 293.250, all amounts paid to the Oregon Business Development De-
21 partment or the Department of Revenue under this section, including award amounts, pen-
22 alties, interest, fees and any other charges, shall be transferred to the Housing Project
23 Revolving Loan Fund established under section 12 of this 2023 Act in repayment of the loans
24 to which the fees relate.

25 **SECTION 12.** (1) The Housing Project Revolving Loan Fund is established in the State
26 Treasury, separate and distinct from the General Fund. Interest earned by the Housing
27 Project Revolving Loan Fund shall be credited to the fund.

28 (2) Moneys in the Housing Project Revolving Loan Fund shall consist of:

29 (a) Amounts appropriated or otherwise transferred or credited to the fund by the Legis-
30 lative Assembly;

31 (b) Fee payments received by the Oregon Business Development Department under sec-
32 tion 9 of this 2023 Act;

33 (c) Earnings received on moneys in the fund; and

34 (d) Other moneys or proceeds of property from any public or private source that are
35 transferred, donated or otherwise credited to the fund.

36 (3) Moneys in the Housing Project Revolving Loan Fund are continuously appropriated
37 to the Oregon Business Development Department for the following purposes:

38 (a) Making loans to sponsoring jurisdictions under section 4 of this 2023 Act;

39 (b) Reimbursing costs to sponsoring jurisdictions and counties payable under section 4
40 (4)(a) and (b) of this 2023 Act; and

41 (c) Reimbursing the actual costs incurred by the department payable under section 4
42 (4)(c) of this 2023 Act.

43 (4) Moneys in the Housing Project Revolving Loan Fund at the end of a biennium shall
44 be retained in the fund and used for the purposes set forth in subsection (3) of this section.

45 **SECTION 13.** There is appropriated to the Oregon Business Development Department, for

1 the biennium beginning July 1, 2023, out of the General Fund, the amount of \$300,000,000, for
2 deposit in the Housing Project Revolving Loan Fund established under section 12 of this 2023
3 Act, to be used for the purpose of carrying out the provisions of sections 1 to 12 of this 2023
4 Act.

5 SECTION 14. This 2023 Act takes effect on the 91st day after the date on which the 2023
6 regular session of the Eighty-second Legislative Assembly adjourns sine die.

7
