

A-Engrossed House Bill 2095

Ordered by the House May 23
Including House Amendments dated May 23

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue for Representative Nancy Nathanson)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes technical fixes to some tax statutes. (Flesch Readability Score: 75.5).

[Digest: The Act makes a fix to the tax credit for semiconductor research. (Flesch Readability Score: 67.7).]

Modifies the tax credit for research conducted by a semiconductor company. Omits an obsolete provision concerning the election of alternative incremental credit under related federal law. **Aligns dates in tax credit provisions with underlying sunset dates for credits.**

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to revenue; amending ORS 315.271, 315.518 and 317.097 and section 9, chapter 765, Oregon Laws 2007; and prescribing an effective date.

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

SECTION 1. ORS 315.518 is amended to read:

315.518. (1) As used in this section, "qualified semiconductor company" means an entity whose primary business is the research, design, development, fabrication, assembly, testing, packaging or validation of semiconductors, or an entity whose primary business is the creation of semiconductor manufacturing equipment, semiconductor core intellectual property or electronic design automation software that is primarily intended for use in the semiconductor industry.

(2) A credit against taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 shall be allowed to eligible taxpayers for increases in qualified research expenses and basic research payments. The credit shall be determined in accordance with section 41 of the Internal Revenue Code, except as follows:

(a) The applicable percentage specified in section 41(a) of the Internal Revenue Code shall be 15 percent.

(b) "Qualified research" and "basic research" shall consist only of research conducted in Oregon by a qualified semiconductor company, in support of a trade or business directly related to semiconductors.

[(c) Section 41(c)(4) of the Internal Revenue Code (relating to the alternative incremental credit) does not apply to the credit allowable under this section.]

(3) The Income Tax Regulations as prescribed by the Secretary of the Treasury under authority of section 41 of the Internal Revenue Code apply for purposes of this section, except as modified by this section or as provided in rules adopted by the Department of Revenue.

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.

(4) The maximum credit under this section may not exceed \$4 million for any taxpayer.

(5) Prior to claiming a credit under this section, a taxpayer must obtain from the Oregon Business Development Department:

(a) If applicable, approval from the Oregon Business Development Department as provided in section 5, chapter 298, Oregon Laws 2023.

(b) Certification as provided in ORS 315.522.

(6) The Oregon Business Development Department shall provide information to the Department of Revenue about all certifications issued under ORS 315.522, if required by ORS 315.058.

(7) The Director of the Oregon Business Development Department may order the suspension or revocation of a credit allowed under this section, as provided in ORS 315.061.

(8) A deduction may not be taken for the portion of expenses or payments, otherwise allowable as a deduction, that is equal to the amount of the credit claimed under this section.

(9) Notwithstanding ORS 317.090 (3), the refundable portion of a credit under this section is allowed against the tax imposed under ORS 317.090 and may reduce the tax imposed under ORS 317.090 to zero. Any remaining amount of credit above the minimum shall be refunded as provided in ORS 315.519.

(10) Any tax credit that is otherwise allowable under this section and that is not used by the taxpayer in that year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

SECTION 2. ORS 317.097, as amended by section 25, chapter 75, Oregon Laws 2024, is amended to read:

317.097. (1) As used in this section:

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

(b) "Bonds" means a bond, as defined in ORS 286A.001, if issued on behalf of the Housing and Community Services Department, or bonds, as defined in ORS 456.055, if issued by a housing authority.

(c) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

(d) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(e) "Limited equity cooperative" means a cooperative corporation formed under ORS chapter 62 whose articles of incorporation, in addition to the other requirements of ORS chapter 62, prohibit members from selling their ownership interests:

(A) To any person other than a low income person; or

(B) For a sales price that exceeds the sum of:

(i) The price the member paid for the ownership interest;

(ii) The cost of any permanent improvements the member made to the housing unit during the

member's ownership;

(iii) Any special assessments the member paid to the limited equity cooperative during the member's ownership that were expended to make permanent improvements to the building in which the member's housing unit is located; and

(iv) A return on the amounts described in sub-subparagraphs (i) to (iii) of this subparagraph, computed from the year in which the respective amount was paid, that equals the greater of the result of adjusting each amount by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or of increasing each amount by three percent compounded annually.

(f) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(g) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2023.

(h) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

(i) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

(j) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

(k) "Qualified loan" means:

(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

(B) The purchase by a lending institution of bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

(L) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(2) The Department of Revenue shall allow a credit against taxes otherwise due under this chapter for the tax year to a lending institution that makes a qualified loan certified by the Housing and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the tax year at an annual rate less than the market rate for a qualified loan *[that is made before January 1, 2026,]* that complies with the requirements of this section; and

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

(3) The maximum amount of credit for the difference between the amounts described in sub-

section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of the qualified loan during the tax year for which the credit is claimed.

(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or making a loan directly to:

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

(b) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing, including housing in the form of a limited equity cooperative; and

(B) Provides a written certification executed by the Housing and Community Services Department that the:

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

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on, in the form of reduced housing payments, to the tenants or to the holders of proprietary leases in a limited equity cooperative;

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

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed;

(d) A qualified borrower who:

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

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

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

(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower; or

(e) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department or the governmental party to the rent assistance contract that the housing preserved by the loan:

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

(ii) Is the subject of a rent assistance contract with the federal government or with a state or local government that will be maintained by the qualified borrower and that limits a tenant's rent to no more than 30 percent of their income.

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

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

(a) States that the qualified loan is within the limitation imposed by subsection (8) of this section; and

(b) Specifies the period, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan, not to exceed:

(A) 30 years, for a qualified loan with a contract for rent assistance or financing resources from the United States Department of Agriculture, for new housing construction, acquisition of housing or a preservation project; or

(B) 20 years, for any other type of qualified loan.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed \$35 million for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

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

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

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

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

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

(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer all or

1 part of a tax credit allowed under this section to one or more other lending institutions that are
 2 stockholders or members of the community development corporation or that otherwise participate
 3 through the community development corporation in the making of one or more qualified loans for
 4 which the tax credit under this section is allowed.

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

8 (14) Notwithstanding subsection (1)(j) and (L) of this section, a qualified borrower on a loan to
 9 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park
 10 under subsection (5)(c) of this section must be:

11 (a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state govern-
 12 mental entity, local unit of government as defined in ORS 466.706 or housing authority; or

13 (b) A nonprofit corporation or housing authority that has a controlling interest in the real
 14 property that is financed by a qualified loan. A controlling interest includes a controlling interest
 15 in the general partner of a limited partnership that owns the real property.

16 (15) The Department of Revenue may require that a lending institution that has earned the
 17 credit and a lending institution that intends to claim the credit jointly file a notice, as prescribed
 18 by the Department of Revenue. The notice must comply with ORS 315.056 (2) or 315.058 (2).

19 (16) The Housing and Community Services Department shall provide information to the Depart-
 20 ment of Revenue about all certifications executed under this section, if required by ORS 315.058.

21 (17) The Housing and Community Services Department and the Department of Revenue may
 22 adopt rules to carry out the provisions of this section.

23 **SECTION 3.** ORS 315.271 is amended to read:

24 315.271. (1) A credit against taxes otherwise due under ORS chapter 316, 317 or 318 shall be
 25 allowed for donations to a fiduciary organization for distribution to individual development accounts
 26 established under ORS 458.685. The credit shall equal a percentage of the taxpayer's donation
 27 amount, as determined by the fiduciary organization, but not to exceed 90 percent of any donation
 28 amount. A credit may be claimed for a donation made not later than April 15 following December
 29 31 of the tax year for which the credit is allowed. *[To qualify for a credit under this section, do-*
 30 *nations to a fiduciary organization must be made prior to April 15, 2028.]*

31 (2) If a credit allowed under this section is claimed, the amount upon which the credit is based
 32 that is allowed or allowable as a deduction from federal taxable income under section 170 of the
 33 Internal Revenue Code shall be added to federal taxable income in determining Oregon taxable in-
 34 come. As used in this subsection, the amount upon which a credit is based is the allowed credit di-
 35 vided by the applicable percentage, as determined by the fiduciary organization.

36 (3) The allowable tax credit that may be used in any one tax year shall not exceed the tax li-
 37 ability of the taxpayer.

38 (4) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 39 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 40 succeeding tax year. Any tax credit remaining unused in the next succeeding tax year may be car-
 41 ried forward and used in the second succeeding tax year. Any tax credit not used in the second
 42 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not
 43 be carried forward for any tax year thereafter.

44 (5) The total credits allowed to all taxpayers in any tax year under this section and ORS 458.690
 45 may not exceed \$7.5 million. The total credit allowed to a taxpayer in any tax year under this sec-

tion and ORS 458.690 may not exceed \$500,000.

SECTION 4. Section 9, chapter 765, Oregon Laws 2007, as amended by section 7, chapter 701, Oregon Laws 2015, section 7, chapter 525, Oregon Laws 2021, and section 16, chapter 490, Oregon Laws 2023, is amended to read:

Sec. 9. (1) A credit may not be claimed under ORS 315.271 and 458.690 for tax years beginning on or after January 1, 2030.

(2) For a taxpayer to qualify for a credit under ORS 315.271, donations to a fiduciary organization must be made prior to April 15, 2030.

[(2)] (3) The amendments to ORS 315.271 by section 6, chapter 525, Oregon Laws 2021, apply to tax years beginning on or after January 1, 2022, and before January 1, 2030.

SECTION 5. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.
