

HB 2137-1
(LC 2821)
2/28/19 (CMT/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Oregon Farm Bureau)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2137**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and delete line 3 and insert “creating new provisions; amending ORS 314.752,
3 318.031 and 456.508 and section 28, chapter 913, Oregon Laws 2009; and pre-
4 scribing an effective date.”.

5 Delete lines 5 through 9 and insert:

6 **“SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made**
7 **a part of ORS chapter 315.**

8 **“SECTION 2. (1) As used in this section:**

9 **“(a) ‘Agricultural worker’ has the meaning given that term in ORS**
10 **315.163.**

11 **“(b) ‘Community-based housing’ means housing that is operated by**
12 **a nonprofit organization or by a housing authority created under ORS**
13 **456.055 to 456.235, of which a majority of the occupants are agricultural**
14 **workers.**

15 **“(c) ‘Eligible costs’ means operation costs that have been certified**
16 **by the Housing and Community Services Department as eligible for the**
17 **tax credit under this section.**

18 **“(d) ‘Eligible housing’ means farm employment-related housing or**
19 **community-based housing.**

20 **“(e) ‘Farm employment-related housing’ means agriculture**
21 **workforce housing as defined in ORS 315.163 that is located on the**

1 owner's property and that is offered in connection with an agricultural
2 worker's employment.

3 “(f)(A) ‘Operation costs’ includes costs of insurance, property
4 management, repair and maintenance, resident services and utilities
5 necessary to operate eligible housing.

6 “(B) ‘Operation costs’ does not include any expense that may be
7 depreciated or amortized as a capital cost.

8 “(g) ‘Utilities’ includes electricity, gas, oil and water and sewer
9 service.

10 “(2) A credit against taxes that are otherwise due under ORS
11 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317
12 or 318 is allowed to a taxpayer for operation costs of eligible housing
13 incurred by an owner of eligible housing during the tax year. The
14 credit shall equal 50 percent of eligible costs incurred during the tax
15 year, but shall be reduced by any amount of federal or other govern-
16 mental or private grants or similar funding that the owner receives
17 to compensate for the payment of eligible costs incurred during the
18 tax year.

19 “(3) To be eligible for a credit under this section, the eligible hous-
20 ing must:

21 “(a) Comply with all occupational safety or health laws, rules, reg-
22 ulations and standards;

23 “(b) Upon occupancy and if an indorsement is required, be operated
24 by a person who holds a valid indorsement as a farmworker camp op-
25 erator under ORS 658.730;

26 “(c) If farm employment-related housing, on or before 90 days after
27 the first day of the tax year, or 90 days after the housing is occupied,
28 whichever is later, be registered as a farmworker camp with the De-
29 partment of Consumer and Business Services under ORS 658.750; and

30 “(d) If community-based housing, meet all certification require-

1 **ments for agricultural workers established by the Housing and Com-**
2 **munity Services Department.**

3 **“(4) The credit allowed under this section:**

4 **“(a) May not be claimed for a unit of housing that is occupied**
5 **during the tax year by temporary H-2A workers admitted to this**
6 **country under 8 U.S.C. 1188.**

7 **“(b) May not be claimed for any expense that is attributable to**
8 **payments for utilities if the owner or operator of the eligible housing**
9 **requires occupants of the eligible housing to pay for utilities.**

10 **“(c) May be claimed for eligible costs of both farm employment-**
11 **related housing and community-based housing.**

12 **“(5) An owner must obtain a written certification of eligible costs**
13 **from the Housing and Community Services Department prior to**
14 **claiming the credit allowed under this section.**

15 **“(6) If the amount allowable as a credit under this section, when**
16 **added to the sum of the amounts allowable as a payment of tax under**
17 **ORS 314.505 to 314.525, 316.187 and 316.583, other payments of tax and**
18 **other refundable credit amounts, exceeds the taxes imposed by ORS**
19 **chapters 314 to 318 (reduced by any nonrefundable credits allowed for**
20 **the tax year), the excess shall be treated as an overpayment of tax and**
21 **shall be refunded or applied in the same manner as other tax over-**
22 **payments.**

23 **“(7) The credit allowed under this section shall be in addition to and**
24 **not in lieu of any depreciation or amortization deduction to which the**
25 **taxpayer otherwise may be entitled with respect to the eligible hous-**
26 **ing, and the credit does not affect the computation of basis for the**
27 **property.**

28 **“(8) A nonresident shall be allowed the credit under this section in**
29 **the same manner and subject to the same limitations as a resident.**
30 **However, the credit shall be prorated using the proportion provided in**

1 **ORS 316.117.**

2 **“(9) If a change in the taxable year of the taxpayer occurs as de-**
3 **scribed in ORS 314.085, or if the Department of Revenue terminates the**
4 **taxpayer’s taxable year under ORS 314.440, the credit allowed by this**
5 **section shall be prorated or computed in a manner consistent with**
6 **ORS 314.085.**

7 **“(10) The Housing and Community Services Department may by**
8 **rule allocate annual available credit amounts available under section**
9 **4 of this 2019 Act between farm employment-related housing and**
10 **community-based housing.**

11 **“(11) The Housing and Community Services Department shall adopt**
12 **rules for the purposes of this section, including rules establishing**
13 **policies and procedures for providing written certification to entities**
14 **eligible for the credit allowed under this section, as required by sub-**
15 **section (5) of this section.**

16 **“SECTION 3. (1) A tax-exempt entity that has obtained a tax credit**
17 **under section 2 of this 2019 Act may transfer the credit to a taxpayer**
18 **subject to tax under ORS chapter 316, 317 or 318.**

19 **“(2) A tax credit allowed under section 2 of this 2019 Act may be**
20 **transferred within two calendar years after the close of the tax year**
21 **in which the credit may be claimed. After that date, no portion of a**
22 **credit allowed under section 2 of this 2019 Act may be transferred.**

23 **“(3) To transfer the tax credit, the entity earning the credit and the**
24 **taxpayer that will claim the credit shall, on or before the date pre-**
25 **scribed by subsection (2) of this section, jointly file a notice of tax**
26 **credit transfer with the Department of Revenue. The notice must be**
27 **given on a form prescribed by the department that contains all of the**
28 **following:**

29 **“(a) The name and address of the transferor and transferee;**

30 **“(b) The amount of the tax credit that is being transferred;**

1 “(c) The amount of the tax credit that is being retained by the
2 transferor; and

3 “(d) Any other information required by the department.

4 “(4) The Housing and Community Services Department may estab-
5 lish by rule a minimum discounted value of a tax credit under this
6 section.

7 “(5) The Department of Revenue, in consultation with the Housing
8 and Community Services Department, may by rule establish proce-
9 dures for the transfer of tax credits provided by this section.

10 “SECTION 4. The total amount of tax credits allowed under section
11 2 of this 2019 Act to all owners of housing may not exceed \$_____
12 million for any tax year.

13 “SECTION 5. ORS 314.752, as amended by section 7, chapter 108, Oregon
14 Laws 2018, is amended to read:

15 “314.752. (1) Except as provided in ORS 314.740 (5)(b), the tax credits al-
16 lowed or allowable to a C corporation for purposes of ORS chapter 317 or
17 318 shall not be allowed to an S corporation. The business tax credits al-
18 lowed or allowable for purposes of ORS chapter 316 shall be allowed or are
19 allowable to the shareholders of the S corporation.

20 “(2) In determining the tax imposed under ORS chapter 316, as provided
21 under ORS 314.734, on income of the shareholder of an S corporation, there
22 shall be taken into account the shareholder’s pro rata share of business tax
23 credit (or item thereof) that would be allowed to the corporation (but for
24 subsection (1) of this section) or recapture or recovery thereof. The credit (or
25 item thereof), recapture or recovery shall be passed through to shareholders
26 in pro rata shares as determined in the manner prescribed under section
27 1377(a) of the Internal Revenue Code.

28 “(3) The character of any item included in a shareholder’s pro rata share
29 under subsection (2) of this section shall be determined as if such item were
30 realized directly from the source from which realized by the corporation, or

1 incurred in the same manner as incurred by the corporation.

2 “(4) If the shareholder is a nonresident and there is a requirement appli-
3 cable for the business tax credit that in the case of a nonresident the credit
4 be allowed in the proportion provided in ORS 316.117, then that provision
5 shall apply to the nonresident shareholder.

6 “(5) As used in this section, ‘business tax credit’ means the following
7 credits: ORS 315.104 (forestation and reforestation), ORS 315.138 (fish
8 screening, by-pass devices, fishways), ORS 315.141 (biomass production for
9 biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture
10 workforce housing), ORS 315.176 (bovine manure), ORS 315.204 (dependent
11 care assistance), ORS 315.208 (dependent care facilities), ORS 315.213 (con-
12 tributions for child care), ORS 315.237 (employee and dependent scholar-
13 ships), ORS 315.271 (individual development accounts), ORS 315.304
14 (pollution control facility), ORS 315.326 (renewable energy development con-
15 tributions), ORS 315.331 (energy conservation projects), ORS 315.336 (trans-
16 portation projects), ORS 315.341 (renewable energy resource equipment
17 manufacturing facilities), ORS 315.354 and 469B.151 (energy conservation fa-
18 cilities), ORS 315.506 (tribal taxes on reservation enterprise zones and res-
19 ervation partnership zones), ORS 315.507 (electronic commerce), ORS 315.514
20 (film production development contributions), ORS 315.521 (university venture
21 development funds), ORS 315.523 (employee training programs), ORS 315.533
22 (low income community jobs initiative), ORS 315.675 (Trust for Cultural De-
23 velopment Account contributions), ORS 317.097 (loans for affordable hous-
24 ing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans
25 for agriculture workforce housing), ORS 317.152 (qualified research expenses)
26 and ORS 317.154 (alternative qualified research expenses) and section 9,
27 chapter 774, Oregon Laws 2013 (alternative fuel vehicle contributions), and
28 section 2, chapter 108, Oregon Laws 2018 (Opportunity Grant Fund contri-
29 butions), **and section 2 of this 2019 Act (housing for agricultural work-**
30 **ers).**

1 **“SECTION 6.** ORS 318.031, as amended by section 8, chapter 108, Oregon
2 Laws 2018, is amended to read:

3 “318.031. It being the intention of the Legislative Assembly that this
4 chapter and ORS chapter 317 shall be administered as uniformly as possible
5 (allowance being made for the difference in imposition of the taxes), ORS
6 305.140 and 305.150, ORS chapter 314 and the following sections are incor-
7 porated into and made a part of this chapter: ORS 315.104, 315.141, 315.156,
8 315.176, 315.204, 315.208, 315.213, 315.304, 315.326, 315.331, 315.336, 315.506,
9 315.507, 315.523 and 315.533 and section 2, chapter 108, Oregon Laws 2018,
10 **and section 2 of this 2019 Act** (all only to the extent applicable to a cor-
11 poration) and ORS chapter 317.

12 **“SECTION 7.** ORS 456.508 is amended to read:

13 “456.508. As used in ORS 456.510 and 456.513:

14 “(1) ‘Accessible’ means that housing complies with federal accessibility
15 guidelines implementing the Fair Housing Amendments Act of 1988, 42 U.S.C.
16 3601 et seq., as amended and in effect on January 1, 2004.

17 “(2) ‘Common living space’ means a living room, family room, dining room
18 or kitchen.

19 “(3) ‘Contiguous units’ means units that are on the same tax lot or on
20 contiguous tax lots that have a common boundary. Tax lots that are sepa-
21 rated by a public road are contiguous tax lots for purposes of this subsection.

22 “(4) ‘New’ means that the housing being constructed did not previously
23 exist in residential or nonresidential form. ‘New’ does not include the ac-
24 quisition, alteration, renovation or remodeling of an existing structure.

25 “(5) ‘Powder room’ means a room containing at least a toilet and sink.

26 “(6) ‘Rental housing’ means a dwelling unit designed for nonowner occu-
27 pancy under a tenancy typically lasting six months or longer.

28 “(7) ‘Subsidized development’ means housing that receives one or more of
29 the following development subsidies from the Housing and Community Ser-
30 vices Department:

1 “(a) The federal low-income housing tax credit under 26 U.S.C. 42(a), if
2 no part of the eligible basis prior to the application of 26 U.S.C. 42(i)(2)(B)
3 was financed with an obligation described in 26 U.S.C. 42(h)(4)(A), all as
4 amended and in effect on January 1, 2004;

5 “(b) An agriculture workforce housing tax credit, as described in ORS
6 315.164;

7 “(c) A loan that qualifies the lending institution for a subsidized housing
8 loan tax credit, as described in ORS 317.097;

9 “(d) Funding under the federal HOME Investment Partnerships Act, 42
10 U.S.C. 12721 to 12839, as amended and in effect on January 1, 2004;

11 “(e) Moneys from the Oregon Housing Fund created under ORS 458.620;
12 [or]

13 “(f) **A tax credit for operation costs of housing agricultural workers**
14 **under section 2 of this 2019 Act; or**

15 “[~~f~~] (g) Moneys from other grant or tax incentive programs administered
16 by the Housing and Community Services Department under ORS 456.559.

17 “(8) ‘Visitable’ means capable of being approached, entered and used by
18 individuals with mobility impairments, including but not limited to individ-
19 uals using wheelchairs.

20 “**SECTION 8. Sections 2 to 4 of this 2019 Act apply to tax years be-**
21 **ginning on or after January 1, 2020, and before January 1, 2026.**

22 “**SECTION 9.** Section 28, chapter 913, Oregon Laws 2009, as amended by
23 section 18, chapter 750, Oregon Laws 2013, is amended to read:

24 “**Sec. 28.** Except as provided in ORS 315.164 (8), a credit may not be
25 claimed under ORS 315.164 for **agriculture workforce housing projects**
26 **completed in** tax years beginning on or after January 1, [2020] **2026.**

27 “**SECTION 10. This 2019 Act takes effect on the 91st day after the**
28 **date on which the 2019 regular session of the Eightieth Legislative**
29 **Assembly adjourns sine die.”.**

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