

**HOUSE AMENDMENTS TO
A-ENGROSSED SENATE BILL 996
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON REVENUE

June 16

1 On page 1 of the printed A-engrossed bill, line 3, after the semicolon insert “repealing section
2 85, chapter 94, Oregon Laws 2005;”.

3 In line 9, delete “2010” and insert “2020”.

4 On page 3, after line 27, insert:

5 **“SECTION 3. If House Bill 2446 becomes law, section 85, chapter 94, Oregon Laws 2005**
6 **(Enrolled House Bill 2446) (amending ORS 317.097), is repealed and ORS 317.097, as amended**
7 **by section 1 of this 2005 Act, is amended to read:**

8 “317.097. (1) A credit against taxes otherwise due under this chapter for the taxable year shall
9 be allowed to a lending institution in an amount equal to the difference between:

10 “(a) The amount of finance charge charged by the lending institution during the taxable year
11 at an annual rate less than the market rate for a loan that is made before January 1, 2020, that
12 complies with the requirements of this section; and

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

17 “(2) The maximum **amount of credit for the** difference between the amounts described in sub-
18 section (1)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
19 the loan during the tax year for which the credit is claimed.

20 “(3) Any tax credit otherwise allowable under this section that is not used by the taxpayer in
21 a particular year may be carried forward and offset against the taxpayer’s tax liability for the next
22 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
23 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
24 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
25 credit not used in that third succeeding tax year may be carried forward and used in the fourth
26 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
27 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
28 thereafter.

29 “(4) In order to be eligible for the tax credit allowed under subsection (1) of this section, the
30 loan shall be:

31 “(a) Made to an individual or individuals who own the dwelling, participate in an owner-
32 occupied community rehabilitation program and are certified by the local government or its desig-
33 nated agent as having an income level at the time the loan is made of less than 80 percent of the
34 area median income; or

1 “(b)(A) Made to a qualified borrower;

2 “(B) Used to finance construction, rehabilitation or development of housing; and

3 “(C) Accompanied by a written certification by the Housing and Community Services Depart-

4 ment that the:

5 “(i) Housing created by the loan is or will be occupied by households earning less than 80 per-

6 cent of the area median income; and

7 “(ii) Full amount of savings from the reduced interest rate provided by the lending institution

8 is or will be passed on to the tenants in the form of reduced housing payments, regardless of other

9 subsidies provided to the housing project.

10 “(5) A loan made to refinance a loan that meets the criteria stated in subsection (4) of this

11 section shall be treated the same as a loan that meets the criteria stated in subsection (4) of this

12 section.

13 “(6) In order to be eligible for the tax credit allowed under subsection (1) of this section, the

14 loan also shall be accompanied by a written certification by the Housing and Community Services

15 Department that:

16 “(a) Specifies the period, as determined by the Housing and Community Services Department,

17 during which the loan is eligible for the tax credit under subsection (1) of this section; and

18 “(b) States that the loan is within the limitation imposed by subsection (7) of this section.

19 “(7)(a) The Housing and Community Services Department may certify loans that are eligible

20 under subsection (4) of this section if the total credits attributable to all loans eligible for credits

21 under subsection (1) of this section and then outstanding do not exceed \$11 million for any year. In

22 making loan certifications, the Housing and Community Services Department shall attempt to dis-

23 tribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state

24 that are determined by the State Housing Council to have the greatest need for affordable housing.

25 “(b) The certification under subsection (6) of this section shall state the period for which the

26 credit will be allowed, which [*shall*] **may** not exceed 20 years.

27 “(8) The applicant’s receipt of a credit under section 42 of the Internal Revenue Code does not

28 affect the credit allowed under this section.

29 “(9) A loan meeting the requirements of subsections (4) and (6) of this section may be sold to a

30 qualified assignee with or without the lending institution’s retaining servicing of the loan so long

31 as a designated lending institution maintains records annually verified by a loan servicer that es-

32 tablish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

33 “(10) As used in this section:

34 “(a) ‘Annual rate’ means the yearly interest rate specified on the note, and not the annual per-

35 centage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

36 “(b) ‘Finance charge’ means the total of all [*interests*] **interest**, loan fees, **interest on any loan**

37 **fees financed by the lending institution**, and other charges related to the cost of obtaining credit

38 [*and includes any interest on any loan fees financed by the lending institution*].

39 “(c) ‘Lending institution’ means any insured institution, as that term is defined in ORS 706.008,

40 [*or*] any mortgage banking company that maintains an office in this state[. ‘*Lending institution*’ *also*

41 *includes*] **or** any community development corporation that is organized under the Oregon Nonprofit

42 Corporation Law.

43 “(d) ‘Qualified assignee’ means any investor participating in the secondary market for real estate

44 loans.

45 “(e) ‘Qualified borrower’ means any borrower that is a sponsoring entity that has a controlling

1 interest in the real property that is financed by the loan described in subsection (4) of this section.
2 Such a controlling interest includes, but is not limited to, a controlling interest in the general
3 partner of a limited partnership that owns the real property.

4 “(f) ‘Sponsoring entity’ means a nonprofit corporation, state governmental entity, local unit of
5 government as defined in ORS 466.706, housing authority or any **other** person, [*as defined in ORS*
6 *174.100, including, but not limited to, an employer making housing available to low-income employees*
7 *and other low-income persons,*] provided that the person has agreed to restrictive covenants imposed
8 by a nonprofit corporation, state governmental entity, local unit of government or housing authority.

9 “(11) Notwithstanding any other provision of law, a lending institution that is a community de-
10 velopment corporation organized under the Oregon Nonprofit Corporation Law may transfer any
11 part or all of any tax credit arising under subsection (1) of this section to one or more other lending
12 institutions that are stockholders or members of the community development corporation or that
13 otherwise participate through the community development corporation in the making of one or more
14 loans that generate the tax credit under subsection (1) of this section.

15 “(12) The lending institution shall file an annual statement with the Housing and Community
16 Services Department, specifying that it has conformed with all requirements imposed by law to
17 qualify for this tax credit.

18 “(13) The Housing and Community Services Department and the Department of Revenue may
19 adopt rules to carry out the provisions of this section.”.

20 In line 28, delete “3” and insert “4”.

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