

CHAPTER 109

AN ACT

HB 4007

Relating to housing; creating new provisions; amending ORS 205.323, 306.815 and 458.655; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

SECTION 1. The Legislative Assembly finds that saving for a down payment and closing costs for the purchase of a first home is challenging in the present economy. The first-time home buyer savings account program will provide opportunities for Oregon residents to save funds for first-time home ownership and will provide Oregonians with meaningful incentives to save for the purchase of a first home.

SECTION 1a. Sections 2 to 8 of this 2018 Act are added to and made a part of ORS chapter 316.

SECTION 2. As used in sections 2 to 8 of this 2018 Act:

(1) "Account holder" means a first-time home buyer who establishes a first-time home buyer savings account.

(2) "Allowable closing costs" means disbursements listed in a settlement statement for the purchase of a single family residence by an account holder.

(3) "Eligible costs" means the down payment and allowable closing costs for the purchase of a single family residence by an account holder.

(4) "Financial institution" means a bank, a trust company, a commercial bank, a national bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance company, a mutual fund, an investment firm or a similar entity authorized to do business in this state.

(5) "First-time home buyer" means an individual who is a resident of this state and has not owned or purchased, either individually or jointly, a single family residence during a period of three years prior to the date of the purchase of a single family residence.

(6) "First-time home buyer savings account" or "account" means an account established as a first-time home buyer savings account by written agreement between an account holder and a financial institution and that the account holder designates for the purpose of paying or reimbursing eligible costs for the purchase of a single family residence in this state by the account holder.

(7) "Resident of this state" has the meaning given that term in ORS 316.027.

(8) "Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., and regulations thereunder.

(9) "Single family residence" means a residence intended for occupation by a single family unit that is owned and occupied by an account holder as the account holder's principal residence. "Single family residence" includes a manufactured home, residential trailer, mobile home or condominium unit.

(10) "Taxable income" has the meaning given that term in ORS 316.022.

SECTION 3. (1) An individual may create a first-time home buyer savings account with a financial institution to be used to pay or reimburse the account holder's eligible costs related to the purchase of a single family residence by entering into a first-time home buyer savings account agreement with the financial institution.

(2) An individual may jointly own a first-time home buyer savings account with another person if the joint account holders are both first-time home buyers and file a joint income tax return.

(3) An individual may not be the account holder of more than one first-time home buyer savings account.

(4) Only cash may be contributed to a first-time home buyer savings account. Subject to the limitations of section 4 (4) of this 2018 Act, persons other than the account holder may contribute funds to a first-time home buyer savings account. There is no limitation on the amount of contributions that may be made to or retained in a first-time home buyer savings account.

(5) The account holder may not use funds held in a first-time home buyer savings account to pay expenses of administering the account, except that the financial institution that administers the account may deduct a service fee from the account.

(6) An account holder may withdraw all or part of the funds from a first-time home buyer savings account and deposit the funds in a new first-time home buyer savings account held by a different financial institution or the same financial institution.

(7) No financial institution is required to offer first-time home buyer savings accounts to customers of the institution.

SECTION 4. (1) Subject to section 6 of this 2018 Act, and in addition to the other modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income the amount of funds contributed by an account holder to the account holder's

first-time home buyer savings account during the tax year, not to exceed \$5,000 for an account holder who files an individual income tax return or \$10,000 for joint account holders who file a joint income tax return.

(2) Earnings, including interest and other income, on the principal in the account during the tax year are exempt from taxation until withdrawn by the taxpayer, subject to subsection (3) of this section.

(3) An account holder may claim the subtraction and exemption under subsections (1) and (2) of this section:

(a) For contributions made into a first-time home buyer savings account opened before January 1, 2027;

(b) For a period not to exceed 10 years from the date the account holder first opens any first-time home buyer savings account; and

(c) For an aggregate total amount of principal and earnings not to exceed \$50,000 during the 10-year period.

(4) A person other than the account holder who deposits funds in a first-time home buyer savings account is not entitled to the subtraction and exemption provided for in this section.

NOTE: Section 5 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 6. (1) The limits applicable to a subtraction from federal taxable income and an exemption allowed under section 4 of this 2018 Act are:

(a) \$10,000 if reported on a joint income tax return, or \$5,000 for all others, if the federal adjusted gross income of the taxpayer for the tax year is less than \$149,000 or, if reported on other than a joint return, less than \$104,000.

(b) \$8,000 if reported on a joint income tax return, or \$4,000 for all others, if the federal adjusted gross income of the taxpayer for the tax year is \$149,000 or more and less than \$158,000 or, if reported on other than a joint return, \$104,000 or more and less than \$111,000.

(c) \$6,000 if reported on a joint income tax return, or \$3,000 for all others, if the federal adjusted gross income of the taxpayer for the tax year is \$158,000 or more and less than \$167,000 or, if reported on other than a joint return, \$111,000 or more and less than \$117,000.

(d) \$4,000 if reported on a joint income tax return, or \$2,000 for all others, if the federal adjusted gross income of the taxpayer for the tax year is \$167,000 or more and less than \$176,000 or, if reported on other than a joint return, \$117,000 or more and less than \$123,000.

(e) \$2,000 if reported on a joint income tax return, or \$1,000 for all others, if the federal adjusted gross income of the taxpayer for the tax year is \$176,000 or more and less than \$187,000 or, if reported on other than a joint return, \$123,000 or more and less than \$131,000.

(2) If the federal adjusted gross income of the taxpayer for the tax year is \$187,000 or more if reported on a joint income tax return, or \$131,000 or more if reported on other than a joint income tax return, the limit is zero and the taxpayer is not allowed a subtraction from federal taxable income or an exemption under section 4 of this 2018 Act.

(3) The Department of Revenue by rule may adjust the limits applicable in the current tax year to the subtractions and exemptions specified in subsection (1) of this section so that the limits reflect the percentage change in the U.S. City Average Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, during the tax year.

(4) Any amounts contributed to a first-time home buyer savings account that are not subtracted from federal taxable income for any reason may not be carried forward as a subtraction for any succeeding tax year.

SECTION 7. (1) There shall be added to federal taxable income the amount of funds a taxpayer withdraws from a first-time home buyer savings account established under section 3 of this 2018 Act, if:

(a) Those funds were used for a purpose other than eligible costs;

(b) In this tax year or a previous tax year, those funds were subtracted or exempted from federal taxable income under section 4 of this 2018 Act; and

(c) Those funds were not deposited into another first-time home buyer savings account held by the taxpayer.

(2) There shall be added to federal taxable income the amount of funds a taxpayer holds in a first-time home buyer savings account not expended on eligible costs by December 31 of the last year of the 10-year period described under section 4 (3) of this 2018 Act if in a previous tax year those funds were subtracted or exempted from federal taxable income under section 4 of this 2018 Act.

(3) The Department of Revenue shall assess a penalty against the taxpayer in the amount of five percent of the funds withdrawn from a taxpayer's first-time home buyer savings account, if:

(a) The withdrawal of funds occurs during the 10-year period set forth in section 4 (3) of this 2018 Act; and

(b) The withdrawn funds are not used for eligible costs or deposited into another first-time home buyer savings account held by the taxpayer.

(4) The penalty described in subsection (3) of this section does not apply to any funds withdrawn from a first-time home buyer savings account of:

(a) A taxpayer who is deceased;

(b) A taxpayer who has filed for protection under the United States Bankruptcy Code (11 U.S.C. 101 et seq.); or

(c) A taxpayer whose loss of use or function of any portion of the body permanently incapacitates the taxpayer from regularly performing work at a gainful and suitable occupation.

SECTION 8. (1) On or before January 31 of each year, a financial institution at which an account holder has created a first-time home buyer savings account shall provide to the account holder a certificate containing the following information:

(a) The date when the account was created;
 (b) The name of the account holder;
 (c) The amount of funds contributed to the account during the tax year;

(d) The amount of funds withdrawn from the account during the tax year; and

(e) Any other information as required by rules adopted by the Department of Revenue.

(2) A financial institution is not required to:

(a) Track the use of moneys withdrawn from a first-time home buyer savings account; or

(b) Allocate funds in a first-time home buyer savings account among joint account holders.

(3) A financial institution is not responsible or liable for:

(a) Determining or ensuring that an account satisfies the requirements to be a first-time home buyer savings account;

(b) Determining or ensuring that funds in a first-time home buyer savings account are used for eligible costs; or

(c) Reporting or remitting taxes or penalties related to the use of a first-time home buyer savings account.

(4) Upon being furnished proof of the death of the account holder and such other information required by the contract governing the first-time home buyer savings account, a financial institution shall distribute the principal and accumulated interest or other income in the first-time home buyer savings account in accordance with the terms of the contract governing the account.

SECTION 9. Sections 2 to 8 of this 2018 Act apply to tax years beginning on or after January 1, 2019, and before January 1, 2037.

SECTION 10. ORS 205.323 is amended to read: 205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320 and other fees, the county clerk shall charge and collect the following fees for the recording or filing of any instrument described in ORS 205.130:

(a) A fee of \$1, to be credited as provided in subsection (4)(a) of this section;

(b) A fee of \$10, to be credited as provided in subsection (4)(b) of this section; and

(c) A fee of [~~\$20~~] **\$60**, to be credited as provided in subsection (4)(c) of this section.

(2) Subsection (1) of this section does not apply to the recording or filing of the following:

(a) Instruments that are otherwise exempt from recording or filing fees under any provision of law;

(b) Any satisfaction of judgment or certificate of satisfaction of judgment; or

(c) Internal county government instruments not otherwise charged a recording or filing fee.

(3) Subsection (1)(c) of this section does not apply to the recording or filing of:

(a) Instruments required under ORS 517.210 to maintain mining claims;

(b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and 657.646; or

(c) A certified copy of a judgment, a lien record abstract as described in ORS 18.170 or a satisfaction of a judgment, including a judgment noticed by recordation of a lien record abstract.

(4) Of the amounts charged and collected under this section:

(a) The recording or filing fee charged and collected under subsection (1)(a) of this section must be deposited and credited to the Oregon Land Information System Fund established under ORS 306.132.

(b) The recording or filing fee charged and collected under subsection (1)(b) of this section shall be credited as follows:

(A) Five percent of the fee must be credited for the benefit of the county;

(B) Five percent of the fee must be credited for the benefit of the county clerk for the purposes described in ORS 205.320 (2); and

(C) 90 percent of the fee must be credited to and deposited in the County Assessment and Taxation Fund created under ORS 294.187.

(c) The recording or filing fee charged and collected under subsection (1)(c) of this section must be credited to and deposited in the County Assessment and Taxation Fund created under ORS 294.187.

(5) The Department of Revenue [*is*] **and county tax collectors are** exempt from paying the fee under subsection (1)(c) of this section.

SECTION 11. ORS 306.815 is amended to read:

306.815. (1) A city, county, district or other political subdivision or municipal corporation of this state shall not impose, by ordinance or other law, a tax or fee upon the transfer of a fee estate in real property, or measured by the consideration paid or received upon transfer of a fee estate in real property.

(2) A tax or fee upon the transfer of a fee estate in real property does not include any fee or charge that becomes due or payable at the time of transfer of a fee estate in real property, unless that fee or charge is imposed upon the right, privilege or act of transferring title to real property.

(3) Subsection (1) of this section does not apply to any fee established under ORS 203.148.

(4) Subsection (1) of this section does not apply to any tax if the ordinance or other law imposing the tax is in effect and operative on March 31, 1997.

(5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the recording or filing of the instrument conveying the real property being transferred, is less than [§32] **\$107**.

SECTION 12. ORS 458.655 is amended to read:

458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and Community Services Department to expand this state's supply of homeownership housing for [*low and very low income*] families and individuals **who the Oregon Housing Stability Council determines, based on information from the United States Department of Housing and Urban Development, have income that is not more than 100 percent of median family income**, including, but not limited to, persons over 65 years of age, persons with disabilities, minorities, veterans and farmworkers. An amount equal to 25 percent of moneys deposited in the account pursuant to ORS 294.187 is dedicated for expenditure to expand this state's supply of homeownership housing for low and very low income veterans and families of veterans. The [*Oregon Housing Stability*] council shall have a policy of distributing funds statewide while concentrating funds in those areas of this state with the greatest need, as determined by the council, for low and very low income homeownership housing. However, the council's policy of distributing funds may differ from the distribution policy for the Housing Development and Guarantee Account.

(2) Funds in the Home Ownership Assistance Account shall be granted to organizations that both sponsor and manage low income homeownership programs, including lease-to-own programs, for the construction of new homeownership housing or for the acquisition or rehabilitation of existing structures for homeownership housing for persons of low or very low income, or both.

(3) The council shall develop a policy for disbursing grants for any or all of the following purposes:

(a) To aid low income homeownership programs, including program administration, in purchasing land, providing assistance with down payment costs, or providing homeownership training and qualification services or any combination thereof. Funds in the Home Ownership Assistance Account may not be used by an organization to pay for its general operations or to pay for more than 25 percent of construction or rehabilitation costs.

(b) To match public and private moneys available from other sources for purposes of the provision of low or very low income homeownership housing.

(c) To administer the Home Ownership Assistance Account as provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the **Housing and Community Services Department**.

(4) The council, in developing policy under subsection (3) of this section, shall give preference in making grants to those entities that propose to:

(a) Provide the greatest number of low and very low income homeownership housing units constructed, acquired or rehabilitated for the amount of account money expended by matching account funds with other grant, loan or eligible in-kind contributions;

(b) Ensure the longest use for the units as low or very low income homeownership housing units, such as by including some form of equity recapture, land trust or shared equity provisions, as determined by the council;

(c) Include social services for occupants and proposed occupants of the proposed housing[, including, but not limited to, programs that address home health care, mental health care, alcohol and drug treatment and post-treatment care, child care, homeownership training, mortgage qualification service, credit repair and case management; and

(d) Support a comprehensive strategy to reverse the decreasing rates of homeownership among minorities, giving priority to activities that support adopted comprehensive community plans that incorporate recognized best practices or demonstrate proven success in increasing homeownership for minorities.

SECTION 13. The amendments to ORS 458.655 by section 12 of this 2018 Act apply to moneys deposited in the Home Ownership Assistance Account on or after July 1, 2018.

SECTION 14. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2, chapter 574, Oregon Laws 2017, for the biennium ending June 30, 2019, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and federal funds from the United States Department of Housing and Urban Development for contract services, but excluding lottery funds and federal funds not described in section 2, chapter 574, Oregon Laws 2017, collected or received by the Housing and Community Services Department, is increased by \$15,973,155 for operations.

SECTION 15. This 2018 Act takes effect on the 91st day after the date on which the 2018 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Approved by the Governor April 13, 2018
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