

**CHAPTER 483**

AN ACT

HB 2141

Relating to administration of tax credits; creating new provisions; amending ORS 285C.650, 285C.656, 315.053, 315.138, 315.141, 315.164, 315.169, 315.176, 315.521, 315.622, 315.624, 317.097, 329A.706, 348.621, 442.485, 458.690, 469B.118, 469B.300, 469B.341 and 469B.991; repealing ORS 315.172, 315.179, 315.181 and 469B.407; and prescribing an effective date.

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

**ADMINISTRATION OF  
TAX CREDIT PROVISIONS**

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

**SECTION 2.** (1) Transfer of any transferable tax credit that is allowed under this chapter or ORS chapter 316 or 317 and that is transferred on or after January 1, 2020, is conditioned upon compliance with this section and ORS 315.052 and 315.053.

(2) The Department of Revenue may require that the person that has earned the credit and the taxpayer that intends to claim the credit jointly file a notice of tax credit transfer with the department on or before the earliest of the following dates:

(a) A date 30 days after the transfer of the credit;

(b) The date on which the transferee files a return; or

(c) The due date, including extensions, of the transferee's return.

(3) The notice shall be given on a form prescribed by the department that contains:

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

(b) The taxpayer identification number of the transferor and of the transferee;

(c) The dates on which the person earning the credit received certifications for the credit;

(d) The amount of the credit that is certified, the amount that is being transferred and the amount that is being retained by the transferor; and

(e) Any other information required by the department.

(4)(a) If a tax credit must be claimed over multiple tax years, a transferor may separately transfer the entirety of that portion corresponding to each tax year to one or more transferees, subject to subsection (5) of this subsection.

(b) Any amount of credit that would be allowed due only to a carryforward provision may not be transferred.

(5) Any transfer of a tax credit or a portion of a tax credit must be completed no later than the earliest of the following dates in relation to the tax return on which it is claimed:

(a) The original due date, including extensions, of the transferor's return;

(b) The date on which the transferor's return is actually filed;

(c) The original due date, including extensions, of the transferee's return; or

(d) The date on which the transferee's return is actually filed.

(6) Notwithstanding subsection (5) of this section, if the transferor is a tax-exempt entity, the transfer must be completed on or before a date one year after the close of the tax year for which the credit receives final certification. As used in this subsection "tax-exempt entity" means a government agency or an organization that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code.

(7) The transferee shall claim the credit in accordance with the credit provisions for the tax years in which the credit is allowed.

(8) The department by rule may establish policies and procedures for the implementation of this section.

**SECTION 3.** (1) For any tax credit that is allowed under this chapter or ORS chapter 316 or 317 and for which certification, determination of eligibility or other approval from an agency other than the Department of Revenue is required and was issued on or after January 1, 2019, the department may require that the other agency provide information about the certification, determination of eligibility or other approval, including the name and taxpayer identification number of the taxpayer or other person receiving approval, the date the approval was issued in its final form, the approved amount of credit and the first tax year for which the credit may be claimed.

(2) Within two months after the close of the tax year in which the approval was issued, a taxpayer that is a pass-through entity that has received approval shall provide to the department, in the manner prescribed by the department, the name and taxpayer identification number of each owner receiving a distributive share of the credit and any other information required by the department pertaining to an owner receiving a distributive share.

**SECTION 4.** (1) Under the procedures for a contested case under ORS chapter 183, the director of the agency responsible for certifying or otherwise determining eligibility or granting approval for a tax credit allowed under this chapter or ORS chapter 316 or 317 may order the

suspension, revocation or forfeiture of the tax credit approval or of a portion thereof if the director finds that:

(a) The approval was obtained by fraud or misrepresentation;

(b) The approval was obtained by mistake or miscalculation; or

(c) The taxpayer otherwise violates or has violated a condition or requirement for eligibility for the tax credit.

(2) As soon as an order of revocation under this section becomes final, the director shall notify the Department of Revenue and the person that received the tax credit certification, or other approval, of the order of revocation. Upon notification, the Department of Revenue immediately shall proceed to collect:

(a) If no portion of a credit has been transferred, those taxes not paid by the holder of the certificate or other approval as a result of the tax credits provided to the holder under the revoked approval, from the holder or a successor in interest to the business interests of the holder. All tax credits provided to the holder and attributable to the fraudulently or mistakenly obtained approval or portion of the approval shall be forfeited.

(b) If all of a credit has been transferred, an amount equal to the amount of the tax credits allowable to the transferee under the revoked approval, from the transferor.

(c) If a portion of a tax credit has been transferred, those taxes not paid by the transferor as a result of the tax credits provided to the transferor pursuant to the revoked approval, from the transferor or a successor in interest to the business interests of the transferor, and an amount equal to the amount of the tax credits allowable to the transferee pursuant to the revoked approval, from the transferor.

(3)(a) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained approval or a successor in interest to the business interests of that person. An assessment of tax is not necessary and the collection of taxes described in this subsection is not precluded by any statute of limitations.

(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained approval.

(4) If the approval is ordered revoked pursuant to this section, the holder of the certificate or other approval shall be denied any further relief in connection with the credit from and af-

ter the date that the order of revocation becomes final.

(5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate held by a transferee may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee may not be reduced and a transferee is not liable under this section.

(6) Interest under this section shall accrue at the rate established in ORS 305.220 beginning the day after the due date of the return on which the credit may first be claimed.

(7) The Department of Revenue may collect amounts owed under this section by a partnership from the partnership.

#### **SECTION 5.** ORS 315.053 is amended to read:

315.053. An income tax credit allowed under [ORS 315.141, 315.331, 315.336, 315.341 or 315.354 or section 12, chapter 855, Oregon Laws 2007,] **this chapter or ORS chapter 316 or 317 that is transferable** may be transferred or sold only to one or more of the following:

- (1) A C corporation.
- (2) An S corporation.
- (3) A personal income taxpayer.

### **TRANSFERABLE TAX CREDIT PROVISIONS**

#### **SECTION 6.** ORS 315.141 is amended to read:

315.141. (1) As used in this section:

(a) "Agricultural producer" means a person that produces biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been converted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass energy use at the biofuel producer's site.

(c) "Biofuel producer" means a person that through activities in Oregon:

(A) Alters the physical makeup of biomass to convert it into biofuel;

(B) Changes one biofuel into another type of biofuel; or

(C) Uses biomass in Oregon to produce energy.

(d) "Biomass" means organic matter that is available on a renewable or recurring basis and that is derived from:

(A) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

(B) Wood material from hardwood timber described in ORS 321.267 (3);

(C) Agricultural residues;

(D) Offal and tallow from animal rendering;

(E) Food wastes collected as provided under ORS chapter 459 or 459A;

(F) Wood debris collected as provided under ORS chapter 459 or 459A;

(G) Wastewater solids; or

(H) Crops grown solely to be used for energy.

(e) "Biomass" does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical compounds or waste, other than matter described in paragraph (d) of this subsection.

(f) "Biomass collector" means a person that collects biomass in Oregon to be used, in Oregon, as biofuel or to produce biofuel.

(g) "Canola" means plants of the genus *Brassica*:  
(A) In which seeds having a high oil content are the primary economically valuable product; and

(B) That have a high erucic acid content suitable for industrial uses or a low erucic acid content suitable for edible oils.

(h) "Oilseed processor" means a person that receives agricultural oilseeds and separates them into meal and oil by mechanical or chemical means.

(i) "Willamette Valley" means Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range.

(2) The Director of the State Department of Energy may adopt rules to define criteria, only as the criteria apply to organic biomass, to determine additional characteristics of biomass for purposes of this section.

(3)(a) An agricultural producer or biomass collector shall be allowed a credit against the taxes that would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for:

(A) The production of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel; or

(B) The collection of biomass in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) A credit under this section may be claimed in the tax year in which the credit is certified under subsection (5) of this section.

(c) A taxpayer may be allowed a credit under this section for more than one of the roles defined in subsection (1) of this section, but a biofuel producer that is not also an agricultural producer or a biomass collector may not claim a credit under this section.

(d) A credit under this section may be claimed only once for each unit of biomass.

(e) Notwithstanding paragraph (a) of this subsection, a tax credit:

(A) Is not allowed for canola grown, collected or produced in the Willamette Valley; and

(B) Is not allowed for grain corn, but a tax credit shall be allowed for other corn material.

(4) The amount of the credit shall equal the amount certified under subsection (5) of this section.

(5)(a) The State Department of Energy may establish by rule procedures and criteria for determining the amount of the tax credit to be certified under this section, consistent with ORS 469B.403. The department shall provide written certification to taxpayers that are eligible to claim the credit under this section.

(b) The State Department of Energy may charge and collect a fee from taxpayers for certification of credits under this section. The fee may not exceed the cost to the department of determining the amount of certified cost.

*[(c) The State Department of Energy shall provide to the Department of Revenue a list, by tax year, of taxpayers for which a credit is certified under this section, upon request of the Department of Revenue.]*

(6) The amount of the credit claimed under this section for any tax year may not exceed the tax liability of the taxpayer.

(7) Each agricultural producer or biomass collector shall maintain the written documentation of the amount certified for tax credit under this section in its records for a period of at least five years after the tax year in which the credit is claimed and provide the written documentation to the Department of Revenue upon request.

(8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax 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, but may not be carried forward for any tax year thereafter.

(10) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of the taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(c) If a change in the *[taxable]* **tax** year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's *[taxable]* **tax** year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

**(11) The Director of the State Department of Energy may order the suspension or revocation of a certification issued under this section, as provided in section 4 of this 2019 Act.**

**SECTION 7.** ORS 315.164 is amended to read:

315.164. (1) A taxpayer who is the owner or operator of agriculture workforce housing is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident individual, or against the taxes otherwise due under ORS chap-

ter 317, if the taxpayer is a corporation. The total amount of the credit shall be equal to 50 percent of the eligible costs actually paid or incurred by the taxpayer to complete an agriculture workforce housing project, to the extent the eligible costs actually paid or incurred by the taxpayer do not exceed the estimate of eligible costs approved by the Housing and Community Services Department under ORS 315.167.

(2) A taxpayer who is otherwise eligible to claim a credit under this section may elect to transfer all or a portion of the credit to a contributor in the manner provided in ORS 315.169.

(3)(a) The credit allowed under this section may be taken for the tax year in which the agriculture workforce housing project is completed or in any of the nine tax years succeeding the tax year in which the project is completed.

(b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined under subsection (1) of this section.

(4)(a) To claim a credit under this section, a taxpayer must show in each year following the completion of an agriculture workforce housing project that the housing continues to be operated as agriculture workforce housing.

(b) A taxpayer need not make the showing required in paragraph (a) of this subsection if the Housing and Community Services Department waives the requirement after the taxpayer has successfully met the requirement for the first five years after completion of the agriculture workforce housing project.

(c) The Housing and Community Services Department shall determine by rule the factors necessary to grant a waiver. Such factors may include a documented decline in a particular area for agriculture workforce housing.

(5) The credit shall apply only to an agriculture workforce housing project that is located within this state and physically begun on or after January 1, 1990.

(6)(a) A credit may not be allowed under this section unless the taxpayer claiming credit under this section:

(A) Obtains a letter of credit approval from the Housing and Community Services Department pursuant to ORS 315.167; and

(B) Files with the *[Department of Revenue]* **Housing and Community Services Department** an annual certification providing that all occupied units for which credit is being claimed are occupied by agricultural workers, including agricultural workers who are retired or disabled, and their immediate families.

(b) The certification described under this subsection shall be made on the form and in the time and manner prescribed by the *[Department of Revenue]* **Housing and Community Services Department**.

(7) Except as provided under subsection (8) of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

(8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax 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, and any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and any credit not used in that seventh succeeding tax year may be carried forward and used in the eighth succeeding tax year, and any credit not used in that eighth succeeding tax year may be carried forward and used in the ninth succeeding tax year, but may not be carried forward for any tax year thereafter.

(9)(a) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the agriculture workforce housing project to which the taxpayer otherwise may be entitled under ORS chapter 316 or 317 for the year.

(b) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax credits allowed under this section.

(10) For a taxpayer to receive a credit under this section, the agriculture workforce housing must:

(a) Comply with all occupational safety or health laws, rules, regulations and standards;

(b) If registration is required, be registered as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;

(c) Upon occupancy and if an indorsement is required, be operated by a person who holds a valid indorsement as a farmworker camp operator under ORS 658.730; and

(d) Continue to be operated as agriculture workforce housing for a period of at least 10 years after the completion of the agriculture workforce housing project, unless a waiver has been granted under subsection (4) of this section.

*[(11)(a) Pursuant to the procedures for a contested case under ORS chapter 183, the Department of Revenue may order the disallowance of the credit allowed under this section if it finds, by order, that:]*

*[(A) The credit was obtained by fraud or misrepresentation; or]*

**(11) The Director of the Housing and Community Services Department may order the suspension or revocation of a letter of credit approval issued under ORS 315.167 or the disallowance of a credit allowed under this section, as provided in section 4 of this 2019 Act:**

**(a) For the reasons set forth in section 4 of this 2019 Act; or**

**[(B)] (b)** In the event that an owner or operator claims or claimed the credit, **if the director finds that:**

**[(i)] (A)** The taxpayer has failed to continue to substantially comply with the occupational safety or health laws, rules, regulations or standards;

**[(ii)] (B)** After occupancy and if registration is required, the agriculture workforce housing is not registered as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;

**[(iii)] (C)** After occupancy and if an indorsement is required, the agriculture workforce housing is not operated by a person who holds a valid indorsement as a farmworker camp operator under ORS 658.730; or

**[(iv)] (D)** The taxpayer has failed to make a showing that the housing continues to be operated as agriculture workforce housing as required under subsection (4)(a) of this section and the taxpayer has not been granted a waiver by the Housing and Community Services Department under subsection (4)(b) of this section.

*[(b) If the tax credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.]*

*[(c) If the tax credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further credit provided under this section, in connection with the agriculture workforce housing project, as the case may be, from and after the date that the order of disallowance becomes final.]*

(12) In the event that the agriculture workforce housing is destroyed by fire, flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place. In the event of fire, if the fire chief of the fire protection district or unit determines that the fire was caused by arson, as defined in ORS 164.315 and 164.325, by the taxpayer or by another at the taxpayer's direction, then the fire chief shall notify the [Department of Revenue] **Housing and Community Services Department**. Upon conviction of arson, the department [of Revenue] shall disallow the credit in accordance with subsection (11) of this section.

(13)(a) A nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(b) If a change in the [taxable] **tax** year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's [taxable] **tax** year under ORS 314.440, the

credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(14)(a) The Department of Revenue may adopt rules for carrying out the provisions of this section.

**(b) The Housing and Community Services Department may adopt rules for providing letters of credit approval and granting certification and for monitoring taxpayer compliance with this section.**

**(15) The Housing and Community Services Department shall provide information to the Department of Revenue about all letters of credit approval and certifications granted under this section, if required by section 3 of this 2019 Act.**

**SECTION 8.** ORS 315.169 is amended to read:

315.169. (1) A taxpayer that is a contributor is allowed a credit against the taxes otherwise due under ORS chapter 316, if the taxpayer is a resident individual, or ORS chapter 317, if the taxpayer is a corporation, to the extent the owner or operator of agriculture workforce housing transferred all or a portion of the credit allowed to the owner or operator under ORS 315.164.

(2) An owner or operator of agriculture workforce housing may transfer all or a portion of the credit allowed to the owner or operator under ORS 315.164 to one or more contributors but the amount transferred may not total more than the total credit the owner or operator may claim. **The transfer must comply with section 2 of this 2019 Act.**

(3) To receive a credit under this section:

(a) The contributor must obtain a letter of credit approval from the Housing and Community Services Department under ORS 315.167; or

(b) If the owner or operator of agriculture workforce housing elects to transfer all or a portion of the credit allowed under ORS 315.164 after the date that a letter of credit approval has been issued to the owner or operator, the owner or operator and the contributor must *jointly file a statement with the Department of Revenue stating the portion of the credit the contributor is allowed to claim and any other information the department may require by rule* **comply with section 2 of this 2019 Act.**

(4) A contributor remains eligible to receive a credit under this section even if the owner or operator of the agriculture workforce housing becomes ineligible for the credit as a result of:

(a) Failure to file the annual certification under ORS 315.164 (6);

(b) Failure to continue to substantially comply with occupational safety or health laws, rules, regulations or standards under ORS 315.164 (10);

(c) Failure to register as a farmworker camp with the Department of Consumer and Business Services under ORS 658.750;

(d) Failure of the operator to hold a valid indorsement as a farmworker camp operator under ORS 658.730; or

(e) Failure to comply with any other rules or provisions relating to the operation or maintenance of the agriculture workforce housing after work on the agriculture workforce housing project has been completed.

*[(5)(a) A contributor does not remain eligible to receive a credit under this section if the Department of Revenue finds, by order of a disallowance of credit and pursuant to the procedures for a contested case under ORS chapter 183, that the contributor obtained the credit by fraud or misrepresentation, including a finding that the housing did not comply with all occupational safety or health laws, rules, regulations and standards applicable for agriculture workforce housing at the time the housing was completed.]*

*[(b) If the credit is disallowed pursuant to this subsection, notwithstanding ORS 314.410 or other law, all prior tax relief provided to the taxpayer shall be forfeited and the department shall proceed to collect those taxes not paid by the taxpayer as a result of the prior granting of the credit.]*

*[(c) If the credit is disallowed pursuant to this subsection, the taxpayer shall be denied any further credit provided under this section, in connection with the agriculture workforce housing project, as the case may be, from and after the date that the order of disallowance becomes final.]*

*[(6)(a)] (5)(a)* The credit allowed under this section may be taken for the tax year in which the agriculture workforce housing project is completed or in any of the nine tax years succeeding the tax year in which the project is completed.

(b) The credit allowed in any one tax year may not exceed 20 percent of the amount determined under subsection (2) of this section that was transferred to the contributor claiming the credit.

*[(7)] (6)* Except as provided under subsection *[(8)] (7)* of this section, the credit allowed in any one year may not exceed the tax liability of the taxpayer.

*[(8)] (7)* Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax 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]* **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, and any credit not used in that fifth succeeding tax year may be carried forward and used in the sixth succeeding tax year, and any credit not used in that sixth succeeding tax year may be carried forward and used in the seventh succeeding tax year, and any credit not used in that seventh succeeding tax year may be carried forward

and used in the eighth succeeding tax year, and any credit not used in that eighth succeeding tax year may be carried forward and used in the ninth succeeding tax year, but may not be carried forward for any tax year thereafter.

*[(9)(a)] (8)(a)* A nonresident individual shall be allowed the credit computed in the same manner and subject to the same limitations as the credit allowed a resident by this section. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(b) If a change in the *[taxable]* **tax** year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's *[taxable]* **tax** year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

*[(10)] (9)* The Department of Revenue may adopt rules for carrying out the provisions of this section.

**SECTION 9.** ORS 317.097, as amended by section 24, chapter 101, Oregon Laws 2018, and section 3, chapter 111, Oregon Laws 2018, 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) "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.

(c) "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.

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

(e) "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, 2017.

(f) "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.

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

(h) "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 con-

trolling interest in the general partner of a limited partnership that owns the real property.

(i) “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, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

(j) “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 *[taxable]* **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 *[taxable]* **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 *[taxable]* **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 subsection (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 suc-

ceeding 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, as defined in ORS 286A.001, issued on behalf of the Housing and Community Services Department, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or by 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 less than 80 percent of the area median income;

(b) 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 that the:

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

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments;

(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; or

(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 less than 80 percent of the area median income; 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.

(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) Specifies the period, not to exceed 20 years, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan; and

(b) States that the qualified loan is within the limitation imposed by subsection (8) of this section.

(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 \$25 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)(i)(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 Non-profit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

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

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

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

(b) A nonprofit corporation or housing authority 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.

**(15) The Department of Revenue may require that a lending institution that has earned the credit and a lending institution that intends to claim the credit jointly file a notice, as prescribed by the Department of Revenue. The notice must comply with section 2 (2) or 3 (2) of this 2019 Act.**

**(16) The Housing and Community Services Department shall provide information to the Department of Revenue about all certifications executed under this section, if required by section 3 of this 2019 Act.**

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

**SECTION 10.** ORS 315.176, as amended by section 1, chapter 111, Oregon Laws 2018, is amended to read:

315.176. (1) As used in this section:

(a) "Biofuel" means liquid, gaseous or solid fuels, derived from biomass, that have been converted into a processed fuel ready for use as energy by a biofuel producer's customers or for direct biomass energy use at the biofuel producer's site.

(b) "Biofuel producer" means a person that, through activities in Oregon:

(A) Alters the physical makeup of biomass to convert it into biofuel;

(B) Changes one biofuel into another type of biofuel; or

(C) Uses biomass in Oregon to produce energy.

(c) "Bovine manure" means, subject to subsection (2) of this section, cattle manure that is produced on Oregon farms.

(d) "Bovine manure producer or collector" means a person that produces or collects bovine manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(e) "Cattle" means cows, heifers, bulls, steers or calves.

(2) The Director of Agriculture may adopt rules to define criteria, only as the criteria apply to bovine manure, to determine additional characteristics of bovine manure for purposes of this section.

(3)(a) A bovine manure producer or collector shall be allowed a credit against the taxes that



would otherwise be due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for the collection of bovine manure in Oregon that is used, in Oregon, as biofuel or to produce biofuel.

(b) A credit under this section may be claimed in the tax year in which the credit is certified under this section.

(c) A credit under this section may be claimed only once for each wet ton of bovine manure.

(4) The amount of the credit shall be calculated at a rate of \$3.50 per wet ton, as certified under this section.

(5)(a) The State Department of Agriculture may establish by rule procedures and criteria for determining the amount of the tax credit to be certified under this section. The department shall provide written certification to taxpayers that are eligible to claim the credit under this section.

(b) The State Department of Agriculture may charge and collect a fee from taxpayers for certification of credits under this section. The fee may not exceed the cost to the department of issuing certifications.

(6) All fees collected under this section shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund. Moneys deposited under this section are continuously appropriated to the department for the purpose of administering and enforcing the provisions of this section.

(7)[(a)] The Department of Revenue may require that the State Department of Agriculture provide information about the certification issued under this section, **if required by section 3 of this 2019 Act.** *[including the name and taxpayer identification number of the taxpayer or other person receiving certification, the date the certification was issued in its final form, the approved amount of credit and the first tax year for which the credit may be claimed.]*

[(b)] *A taxpayer that is a pass-through entity that has received certification under this section shall provide to the Department of Revenue within two months after the close of the tax year in which the certification was issued the name, taxpayer identification number and any other information required by the department of each owner receiving a distributive share of the credit, in a manner prescribed by the department.]*

(8) The amount of the credit claimed under this section for any tax year may not exceed the tax liability of the taxpayer.

(9) Each bovine manure producer or collector shall maintain a record of the written certification of the amount of the tax credit under this section for a period of at least five years after the tax year in which the credit is claimed and provide the written certification to the Department of Revenue upon request.

(10) The credit shall be claimed on a form prescribed by the Department of Revenue that contains the information required by the department.

(11) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a

particular tax 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, but may not be carried forward for any tax year thereafter.

(12) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of the taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(c) If a change in the taxable year of the taxpayer occurs as described in ORS 314.085, or if the department terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

**(13) A person that has earned a tax credit under this section may transfer the credit to a taxpayer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with section 2 of this 2019 Act.**

**(14) The Director of Agriculture may order the suspension or revocation of a certification issued under this section, as provided in section 4 of this 2019 Act.**

**SECTION 11.** ORS 469B.118 is amended to read: 469B.118. *[(1) Upon the Department of Revenue's own motion, or upon request of the State Department of Energy, the Department of Revenue may initiate proceedings for the forfeiture of a tax credit allowed under ORS 316.116 if:]*

*[(a) The verification was fraudulent because of a misrepresentation by the taxpayer;]*

*[(b) The verification was fraudulent because of a misrepresentation by the contractor;]*

**(1) The Director of the State Department of Energy may order the forfeiture of a tax credit allowed under ORS 316.116, as provided in section 4 of this 2019 Act:**

**(a) For the reasons set forth in section 4 of this 2019 Act; or**

**(b) If the director finds that:**

*[(c)] (A) The alternative energy device has not been constructed, installed or operated in substantial compliance with the requirements of ORS 469B.100 to 469B.118; or*

*[(d)] (B) The taxpayer failed to consent to an inspection of the constructed or installed alternative energy device by the State Department of Energy*

after a reasonable, written request for such an inspection by the State Department of Energy.

(2) *[Pursuant to the procedures for a contested case under ORS chapter 183,]* The Director of the State Department of Energy may order the revocation of a contractor certificate issued under ORS 469B.106, **as provided in section 4 of this 2019 Act:**

**(a) For the reasons set forth in section 4 of this 2019 Act; or**

**(b) If the director finds that:**

*[(a) The contractor certificate was obtained by fraud or misrepresentation by the contractor certificate holder;]*

*[(b)] (A) The contractor's performance for the alternative energy device for which the contractor is issued a certificate under ORS 469B.106 does not meet industry standards; or*

*[(c)] (B) The contractor has misrepresented to the customer either the tax credit program or the nature or quality of the alternative energy device.*

*[(3) If the tax credit allowed under ORS 316.116 for the purchase, construction or installation of an alternative energy device is ordered forfeited due to an action of the taxpayer under subsection (1)(a), (c) or (d) of this section, all prior tax relief provided to the taxpayer shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the taxpayer as a result of the tax credit relief under ORS 316.116.]*

*[(4)] (3) If the tax credit for the construction or installation of an alternative energy device is ordered forfeited due to an action of the contractor [under subsection (1)(b) of this section], the Department of Revenue shall proceed to collect, from the contractor, an amount equivalent to those taxes not paid by the taxpayer as a result of the tax credit relief under ORS 316.116. [As long as] If the forfeiture is due to an action of the contractor and not to an action of the taxpayer, the assessment of [such] these taxes shall be levied on the contractor and not on the taxpayer. Notwithstanding ORS 314.835, the Department of Revenue may disclose information from income tax returns or reports to the extent such disclosure is necessary to collect amounts from contractors under this subsection.*

*[(5)] (4) In order to obtain information necessary to verify eligibility and amount of the tax credit, the State Department of Energy or its representative may inspect an alternative energy device that has been purchased, constructed or installed. The inspection shall be made only with the consent of the owner of the dwelling. Failure to consent to the inspection is grounds for the forfeiture of any tax credit relief under ORS 316.116. The Department of Revenue shall proceed to collect any taxes due according to subsection [(4)] (3) of this section. For electrical generating alternative energy devices, the State Department of Energy may obtain energy consumption records for the dwelling the device serves, for a 12-month period, in order to verify eligibility and amount of the tax credit.*

**SECTION 12.** ORS 469B.991 is amended to read:

469B.991. (1) The Director of the State Department of Energy may impose a civil penalty against a contractor if a contractor certificate is revoked under ORS 469B.118. The amount of the penalty shall be equal to the total amount of tax relief estimated to have been provided under ORS 316.116 to the contractor or to purchasers of the system for which a contractor's certificate has been revoked.

(2) The State Department of Energy may not collect any of the amount of a civil penalty imposed under subsection (1) of this section from a purchaser of the system for which the final certificate has been revoked. *[However, the Department of Revenue shall proceed under ORS 469B.118 (3) to collect taxes not paid by a taxpayer if the tax credit is ordered forfeited because of that taxpayer's fraud or misrepresentation under ORS 469B.118 (1)(a).]*

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) A penalty recovered under this section shall be paid into the State Treasury and credited to the General Fund and is available for general governmental expenses.

**SECTION 13.** ORS 469B.300 is amended to read:

469B.300. *[(1) Under the procedures for a contested case under ORS chapter 183, the Director of the State Department of Energy may order the revocation of a certificate issued under ORS 469B.291]*

**(1) The Director of the State Department of Energy may order the suspension or revocation of a certificate or a portion of a certificate issued under ORS 469B.291, as provided in section 4 of this 2019 Act:**

**(a) For the reasons set forth in section 4 of this 2019 Act; or**

**(b) If the director finds that:**

*[(a) The certification was obtained by fraud or misrepresentation;]*

*[(b)] (A) The holder of the certificate or the operator of the project has failed to construct or operate the project in compliance with the plans, specifications and [procedures] contract terms in the certificate; or*

*[(c)] (B) The project is no longer in operation.*

*[(2) As soon as an order of revocation under this section becomes final, the director shall notify the Department of Revenue and the project owner, contract purchaser or lessee of the order of revocation. Upon notification, the Department of Revenue immediately shall proceed to collect those taxes not paid by the certificate holder as a result of the tax credits provided to the certificate holder under ORS 315.331, from the certificate holder or a successor in interest to the business interests of the certificate holder. All prior tax credits provided to the holder of the certificate by virtue of the certificate shall be forfeited.]*

*[(3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained certification*

from the State Department of Energy, or any successor in interest to the business interests of that person. An assessment of tax is not necessary and a statute of limitation does not preclude the collection of taxes described in this subsection.]

[(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained certification.]

[(4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certificate holder shall be denied any further relief under ORS 315.331 in connection with the project from and after the date that the order of revocation becomes final.]

[(5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate held by a transferee under ORS 469B.276 may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee under ORS 469B.276 may not be reduced, and a transferee is not liable under subsections (2) to (4) of this section.]

[(6)] (2) If the project owner is subject to a performance agreement requiring recertification under ORS 469B.298, the certificate shall be considered revoked as to any portion of the tax credit that has not previously received approval under a recertification application that was required to have been filed pursuant to ORS 469B.298.

**SECTION 14.** ORS 469B.341 is amended to read: 469B.341. **The Director of the State Department of Energy may order the suspension or revocation of a certificate or a portion of a certificate issued under ORS 469B.332, as provided in section 4 of this 2019 Act, for the reasons set forth in section 4 of this 2019 Act or if the director finds that:**

(1) **The holder of the certificate or the operator of the transportation project has failed to acquire or perform the project in compliance with the plans, specifications and contract terms in the certificate; or**

(2) **The project is no longer in operation.**

[(1) Under the procedures for a contested case under ORS chapter 183, the Director of the State Department of Energy may order the revocation of a certificate issued under ORS 469B.332 if the director finds that:]

[(a) The certification was obtained by fraud or misrepresentation;]

[(b) The holder of the certificate or the operator of the transportation project has failed to acquire or perform the project in compliance with the plans, specifications and contract terms in the certificate; or]

[(c) The project is no longer in operation.]

[(2) As soon as an order of revocation under this section becomes final, the director shall notify the Department of Revenue and the project owner, contract purchaser or lessee of the order of revocation. Upon notification, the Department of Revenue imme-

diately shall proceed to collect those taxes not paid by the certificate holder as a result of the tax credits provided to the certificate holder under ORS 315.336, from the certificate holder or a successor in interest to the business interests of the certificate holder. All prior tax credits provided to the holder of the certificate by virtue of the certificate shall be forfeited.]

[(3)(a) The Department of Revenue shall have the benefit of all laws of this state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in subsection (2) of this section from the person that obtained certification from the State Department of Energy, or any successor in interest to the business interests of that person. An assessment of tax is not necessary and a statute of limitation does not preclude the collection of taxes described in subsection (2) of this section.]

[(b) For purposes of this subsection, a lender, bankruptcy trustee or other person that acquires an interest through bankruptcy or through foreclosure of a security interest is not considered to be a successor in interest to the business interests of the person that obtained certification.]

[(4) If the certificate is ordered revoked pursuant to subsection (1)(b) of this section, the certificate holder shall be denied any further relief under ORS 315.336 in connection with the project from and after the date that the order of revocation becomes final.]

[(5) Notwithstanding subsections (1) to (4) of this section, a certificate or portion of a certificate held by a transferee under ORS 469B.323 may not be considered revoked for purposes of the transferee, the tax credit allowable to the transferee under ORS 469B.323 may not be reduced, and a transferee is not liable under subsections (2) to (4) of this section.]

## **CERTIFICATION OF OTHER THAN TRANSFERABLE TAX CREDIT PROVISIONS**

**SECTION 15.** ORS 315.521 is amended to read:

315.521. (1) There shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, based on amounts contributed in the tax year to a university venture development fund established under ORS 350.550, to the extent the university that established the fund issued a tax credit certificate to the taxpayer.

(2) The total amount of the credit allowed to a taxpayer shall equal 60 percent of the contribution amount stated on the tax credit certificate, but may not exceed \$600,000.

(3) The credit allowed under this section in any one tax year may not exceed the tax liability of the taxpayer for the tax year.

(4) Any tax credit otherwise allowable 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 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, but may not be carried forward for any tax year thereafter.

(5) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit in the same manner and subject to the same limitations as a resident. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(b) If a change in the tax year of a taxpayer occurs as described in ORS 314.085 or if the Department of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit shall be prorated or computed in a manner consistent with ORS 314.085.

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit shall be determined in a manner consistent with ORS 316.117.

(6) A taxpayer claiming a credit under this section shall add to federal taxable income for Oregon tax purposes any amount that is deducted for federal tax purposes and that also serves as the basis for the credit allowed under this section.

**(7) All universities that issue tax credit certificates under this section shall provide information to the Department of Revenue about all taxpayers that are eligible for a tax credit under this section, if required by section 3 of this 2019 Act.**

**SECTION 16.** ORS 315.622 is amended to read:

315.622. (1) A resident or nonresident individual who is certified as eligible under ORS 442.561 to 442.570 and who is licensed as an emergency medical services provider under ORS chapter 682 shall be allowed a credit against the taxes that are otherwise due under ORS chapter 316 if the Office of Rural Health certifies that the individual provides volunteer emergency medical services in a rural area that comprise at least 20 percent of the total emergency medical services provided by the individual in the tax year.

(2) The amount of the credit shall equal \$250.

(3) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(4) As used in this section, "rural area" means a geographic area that is located at least 25 miles from any city with a population of 30,000 or more.

**(5) The Office of Rural Health shall provide information to the Department of Revenue about all taxpayers that are eligible for a tax credit under this section, if required by section 3 of this 2019 Act.**

**SECTION 17.** ORS 285C.650 is amended to read:

285C.650. (1) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for a tax credit under ORS 315.533 shall apply to the Oregon Business Development Department. The department shall establish by rule application procedures for applications for certification. The entity must submit an application on a form that the department provides that includes:

(a) The entity's name, address, tax identification number and evidence of the entity's certification as a qualified community development entity.

(b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund that includes the State of Oregon in its service area.

(c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund.

(d) A description of the proposed purchase price, structure and purchaser of the equity investment or long-term debt security.

(e) The name and tax identification number of any person eligible to claim a tax credit, under ORS 315.533, allowed as a result of the certification of the qualified equity investment.

(f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment.

(g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall be required for each application submitted.

(2) Within 15 days after receipt of a completed application containing the information necessary for the department to certify a proposed equity investment, including the payment of the application fee, the department shall grant or deny the application in full or in part. If the department denies any part of the application, the department shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the department or otherwise completes its application within 15 days after the notice of denial, the application shall be considered completed as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new submission date.

(3) If the application is deemed complete, the department shall certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under ORS 315.533, subject to the limitations in ORS 315.536. The department shall provide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and

their respective credit amounts. If the names of the persons or entities that are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to ORS 315.536, the qualified community development entity shall notify the department of **the transfer of the change as provided in section 2 (2) and (3) of this 2019 Act.**

(4)(a) Except as provided in paragraph (b) of this subsection, within 60 days after receiving notice of certification, a qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the department with evidence of the receipt of the cash investment within 10 business days after receipt.

(b) For a qualified equity investment described in ORS 285C.653 (2), a qualified community development entity shall issue the qualified equity investment during the period beginning July 1, 2012, and ending 60 days after receiving notice of certification. If the qualified equity investment is issued prior to the submission of an application for certification under this section, the qualified community development entity must provide the department with evidence of the qualified equity investment and of receipt of the cash investment at the time of application for certification.

(c) If a qualified community development entity does not receive the cash investment and issue the qualified equity investment on or before the 60th day following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the department for certification. A certification that lapses reverts to the department and may be reissued only in accordance with the application process outlined in this section.

(5) The department shall certify qualified equity investments in the order applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitation in ORS 285C.653, the department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(6) A qualified community development entity that is certified under this section shall pay an annual evaluation fee of \$1,000 to the department.

(7) The department shall establish by rule procedures to administer the provisions of this section,

including the allocation of tax credits issued for qualified equity investments.

**(8) The Oregon Business Development Department shall provide information to the Department of Revenue about all certifications issued under this section, if required by section 3 of this 2019 Act.**

**SECTION 18.** ORS 285C.656 is amended to read:

**285C.656. (1) The Director of the Oregon Business Development Department may order the suspension or revocation of a certificate or a portion of a certificate issued under ORS 315.533, as provided in section 4 of this 2019 Act.**

**[(1)] (2) The Department of Revenue may recapture any portion of a tax credit allowed under ORS 315.533 if:**

(a) Any amount of federal tax credit that might be available with respect to the qualified equity investment that generated the tax credit under ORS 315.533 is recaptured under section 45D of the Internal Revenue Code. The department's recapture shall be proportionate to the federal recapture with respect to the qualified equity investment.

(b) The qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit prior to the final credit allowance date of the qualified equity investment. The department's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(c) The qualified community development entity fails to invest at least 85 percent of the purchase price of the qualified equity investment in qualified low-income community investments within 12 months of the issuance of the qualified equity investment and maintain the same level of investment in qualified low-income community investments until the last credit allowance date for the qualified equity investment. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by the entity even if the investment has been sold or repaid provided that the entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this state within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment shall be considered held by the issuer through the qualified equity investment's final credit allowance date.

**[(2)] (3) The department shall provide notice to the qualified community development entity of any proposed recapture of tax credits pursuant to sub-**

**section (2) of this section.** The entity shall have 90 days to cure any deficiency indicated in the department's original recapture notice and avoid the recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the department shall provide the entity and the taxpayer from whom the credit is to be *[recaptured]* **collected** with a final order of recapture. Any tax credit for which a final recapture order has been issued shall be recaptured by the department from the taxpayer who claimed the tax credit on a tax return.

**SECTION 19.** ORS 315.138 is amended to read:

315.138. (1) There shall be allowed a credit against tax due under ORS chapter 316, or if the taxpayer is a corporation, under ORS chapter 317, for taxpayers that install screening devices, by-pass devices or fishways, pursuant to ORS 498.306 or 509.585, and the diversion is not part of a hydro-electric project required to be licensed under the Federal Energy Regulatory Commission. Except as allowed in subsection (4) of this section, the credit shall be taken in the tax year in which the final certification is issued under subsection (10) of this section.

(2) The credit shall be equal to 50 percent of the taxpayer's net certified costs of installing a screening device, by-pass device or fishway. The total credit allowed *[shall]* **may** not exceed \$5,000 per device installed.

(3) The credit allowed in any one year *[shall]* **may** not exceed the tax liability of the taxpayer.

(4) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular tax 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. Any credit remaining unused in such second succeeding tax year may be carried forward and used in the third succeeding tax year. Any credit remaining unused in such third succeeding tax year may be carried forward and used in the fourth succeeding tax year. Any credit remaining unused in such fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be used in any tax year thereafter.

(5) The credit provided by this section shall be in addition to and not in lieu of any depreciation or amortization deduction to which the taxpayer otherwise may be entitled with respect to the installation of a screening device, by-pass device or fishway. The taxpayer's adjusted basis for determining gain or loss *[shall]* **may** not be further decreased by any tax credits allowed under this section.

(6) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit in the same manner and subject to the same limitations as a resident. However, the credit shall be prorated using the proportion provided in ORS 316.117.

(b) If a change in the *[taxable]* **tax** year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's *[taxable]* **tax** year under ORS 314.440, the credit allowed by this section shall be prorated or computed in a manner consistent with ORS 314.085.

(c) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(7) To qualify for the credit the taxpayer must be issued a certificate by the State Department of Fish and Wildlife.

(8) To obtain credit under subsection (1) of this section, any person proposing to apply for certification of a screening device, by-pass device or fishway, before installing the screening device, by-pass device or fishway, shall file a request for preliminary certification with the State Department of Fish and Wildlife. The request shall be in a form prescribed by the State Department of Fish and Wildlife. The following conditions shall apply:

(a) Within 30 days of the receipt of a request for preliminary certification, the State Department of Fish and Wildlife may require, as a condition precedent to issuance of a preliminary certificate of approval, the submission of plans and specifications. After examination thereof, the State Department of Fish and Wildlife may request corrections and revisions to the plans and specifications. The State Department of Fish and Wildlife may also require any pertinent information necessary to determine whether the proposed screening device, by-pass device or fishway is in accordance with State Department of Fish and Wildlife requirements.

(b) If the State Department of Fish and Wildlife determines that the proposed screening device, by-pass device or fishway is in accordance with State Department of Fish and Wildlife requirements, it shall issue a preliminary certificate approving the screening device, by-pass device or fishway. If the State Department of Fish and Wildlife determines that the screening device, by-pass device or fishway does not comply with State Department of Fish and Wildlife requirements, the State Department of Fish and Wildlife shall issue an order denying certification.

(c) If within 90 days of the receipt of plans, specifications or any subsequently requested revisions or corrections to the plans and specifications or any other information required pursuant to this section, the State Department of Fish and Wildlife fails to issue a preliminary certificate of approval and the State Department of Fish and Wildlife fails to issue an order denying certification, the preliminary certificate shall be considered to have been issued. The capital investment must comply with the plans, specifications and any corrections or revisions thereto, if any, previously submitted.

(d) Within 30 days from the date of mailing of the order, any person against whom an order is directed pursuant to paragraph (b) of this subsection

may demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the State Fish and Wildlife Director. The hearing shall be conducted in accordance with the applicable provisions of ORS chapter 183.

(9) A screening device, by-pass device or fishway that is installed by the State Department of Fish and Wildlife pursuant to ORS 498.306 (8) in response to noncompliance by the person responsible for the water diversion is not eligible for the credit provided in subsection (1) of this section.

(10) Upon completion and pursuant to application for final certification, final certification shall be issued by the State Department of Fish and Wildlife if the screening device, by-pass device or fishway was constructed and installed in accordance with State Department of Fish and Wildlife requirements. Final certification shall include a statement of the costs of installation as verified by the State Department of Fish and Wildlife. The credit allowed under this section shall be claimed first for the tax year of the taxpayer in which final certification is issued.

**(11) The State Department of Fish and Wildlife shall provide information to the Department of Revenue about all certifications issued under this section, if required by section 3 of this 2019 Act.**

**(12) The State Fish and Wildlife Director may order the suspension or revocation of a certification issued under this section, as provided in section 4 of this 2019 Act, for the reasons set forth in section 4 of this 2019 Act or if the holder of the certificate fails to meet State Department of Fish and Wildlife requirements.**

*[(11) Pursuant to the procedures for a contested case under ORS chapter 183, the State Department of Fish and Wildlife may order the revocation of the certificate issued under this section of any taxpayer, if it finds that:]*

*[(a) The certificate was obtained by fraud or misrepresentation; or]*

*[(b) The holder of the certificate fails to meet State Department of Fish and Wildlife requirements.]*

*[(12) As soon as the order of revocation under this section has become final the State Department of Fish and Wildlife shall notify the Department of Revenue of such order.]*

*[(13) If the certificate of a screening device, by-pass device or fishway is ordered revoked pursuant to subsection (11) of this section, all prior tax relief provided to the holder of the certificate by virtue of the certificate shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder.]*

*[(14) If the certificate of a screening device, by-pass device or fishway is ordered revoked pursuant to subsection (11) of this section, the certificate holder shall be denied any further relief provided under this section in connection with the screening device, by-pass device or fishway, as the case may be, from and*

*after the date that the order of revocation becomes final.]*

*[(15)] (13)* In the event that the screening device, by-pass device or fishway is destroyed by flood, natural disaster or act of God before all of the credit has been used, the taxpayer may nevertheless claim the credit as if no destruction had taken place.

*[(16)] (14)* Screening devices, by-pass devices or fishways that are financed by funds obtained from the Water Development Fund, pursuant to ORS 541.700 to 541.855, *[shall not be]* **are not** eligible for the credit under any circumstances.

*[(17)] (15)* The State Department of Fish and Wildlife shall adopt rules for carrying out the provisions of this section and report to the interim committee created under ORS 171.605 to 171.640 to make studies of and inquiries into state revenue matters.

**SECTION 20.** ORS 315.624 is amended to read:

315.624. (1) A resident or nonresident individual physician licensed under ORS chapter 677 who is engaged in the practice of medicine qualifies for an annual credit against the taxes that are otherwise due under ORS chapter 316 if the physician provides medical care to residents of an Oregon Veterans' Home.

(2) The amount of the credit allowed under this section shall be equal to the lesser of:

(a) \$1,000 for every eight residents to whom the physician provides care at an Oregon Veterans' Home; or

(b) \$5,000.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year, and a credit allowed under this section that is unused may not be carried forward to a succeeding tax year.

(4) A nonresident shall be allowed the credit described in this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(5) In order to qualify for the tax credit allowed under this section, the physician claiming the credit *[must submit with the physician's tax return]* **must obtain** a letter from the Oregon Veterans' Home at which the physician provided care to residents, confirming that the physician missed no more than five percent of the physician's scheduled visits with residents of the home during the tax year, **and must retain the letter with the physician's tax records.**

(6) In the case of a shareholder of a corporation or a member of a partnership, only the care provided by the individual shareholder or partner shall be considered, and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

(7) The Director of Veterans' Affairs shall assist the Department of Revenue in determining if a tax-



payer claiming a credit under this section qualifies for the credit **and shall provide information if required by section 3 of this 2019 Act to the Department of Revenue about all physicians to whom the Oregon Veterans' Home has issued letters as provided under subsection (5) of this section.**

**(8) The director may order the suspension or revocation of a certificate issued under this section, as provided in section 4 of this 2019 Act.**

**SECTION 21.** ORS 329A.706 is amended to read: 329A.706. (1) For the purpose of implementing the program established under ORS 329A.703, the Early Learning Council, in collaboration with the Office of Child Care, shall:

(a) Adopt rules.

(b) Identify child care goals that are consistent with the purposes provided in ORS 329A.703 (2). The goals identified under this paragraph shall take into account state resources and needs.

(2)(a) The Office of Child Care shall issue tax credit certificates in the chronological order in which the contributions are received by the office. The office shall issue tax credit certificates to contributors until the total value of all certificates issued by the office for the calendar year equals \$500,000. Each issued certificate shall state the value of the contribution being certified as eligible for the tax credit allowed under ORS 315.213.

(b) The Office of Child Care may not issue a tax credit certificate to a taxpayer to the extent the credit value to be certified, when added to the total credit value previously certified by the office under paragraph (a) of this subsection for the calendar year exceeds \$500,000.

*[(c) The Office of Child Care shall send a copy of all tax credit certificates issued under this section to the Department of Revenue.]*

*[(d)]* (c) Qualified contributions shall be deposited in the Child Care Fund.

(3) A taxpayer that receives a notice of denial of a tax credit certificate or that receives a tax credit certificate issued for an amount that is less than the amount contributed may request a refund for the amount contributed within 90 days of the denial or issuance of the certificate by the Office of Child Care. The Office of Child Care must send notice of a denial or changed amount and refund the amount for which a tax credit will not be granted within 30 days after receiving the request. The refund shall be made from the Child Care Fund.

(4) The Early Learning Council may establish by rule any other provisions required to implement the program established under ORS 329A.700 to 329A.712.

**(5) The Office of Child Care shall provide information to the Department of Revenue about all tax credit certificates issued under subsection (2) of this section, if required by section 3 of this 2019 Act.**

**SECTION 22.** ORS 348.621 is amended to read:

348.621. (1) An application for tax credit certification shall be filed by an employer that has obtained program certification under ORS 348.618 or that has applied for program certification and is awaiting *[such]* **program** certification by the Director of the Office of Student Access and Completion.

(2) The application for tax credit certification shall be filed by the employer with the director. The application shall be filed at the time prescribed by the director, but no later than October 1 of the calendar year in which begins the tax year for which a credit under ORS 315.237 will be claimed.

(3) The application shall be filed on a form prescribed by the director and shall contain the information required by the director, including the amount of scholarship moneys the employer has provided or intends to provide to employees or dependents during the calendar year for which tax credit certification is being sought and the number of employees employed by the employer for the calendar year.

(4) The director shall consider applications in the chronological order in which the applications are received and shall approve applications to the extent the amount set forth in the application, when added to the total amount already certified by the director for the calendar year under this section, does not exceed \$1 million.

(5) An employer may not receive tax credit certification:

(a) For an amount that is greater than \$1 million;

(b) If the employer employs fewer than four full-time equivalent employees for the calendar year; or

(c) If the employer employs more than 250 employees for the calendar year.

(6) The director shall send written notice of the amount of the tax credit certification, or written notice that no amount is being certified, to the employer *[and to the Department of Revenue]* within 60 days of the date an application is filed under this section.

(7) The employer shall keep the written certification in the employer's records for at least five years and shall furnish the certification to the Department of Revenue if requested.

**(8) The Office of Student Access and Completion shall provide information to the Department of Revenue about all tax credit certifications issued under this section, if required by section 3 of this 2019 Act.**

**(9) The Executive Director of the Office of Student Access and Completion may order the suspension or revocation of a tax credit certification issued under ORS 348.618, as provided in section 4 of this 2019 Act.**

**SECTION 23.** ORS 442.485 is amended to read: 442.485. The responsibilities of the Office of Rural Health shall include but not be limited to:

(1) Coordinating statewide efforts for providing health care in rural areas.



(2) Accepting and processing applications from communities interested in developing health care delivery systems. Application forms shall be developed by the agency.

(3) Through the agency, applying for grants and accepting gifts and grants from other governmental or private sources for the research and development of rural health care programs and facilities.

(4) Serving as a clearinghouse for information on health care delivery systems in rural areas.

(5) Helping local health care delivery systems develop ongoing funding sources.

(6) Developing enabling legislation to facilitate further development of rural health care delivery systems.

**(7) Providing information to the Department of Revenue about all certifications for tax credits allowed under ORS 315.613, 315.616, 315.619 and 315.622, if required by section 3 of this 2019 Act.**

**(8) The Office of Rural Health may order the suspension or revocation of a certificate or a portion of a certificate issued under ORS 315.613 or 315.622, as provided in section 4 of this 2019 Act.**

**SECTION 24.** ORS 458.690 is amended to read:

458.690. (1) Notwithstanding ORS 315.271, a fiduciary organization selected under ORS 458.695 may qualify as the recipient of account contributions that qualify the contributor for a tax credit under ORS 315.271 only if the fiduciary organization structures the accounts to have the following features:

(a) The fiduciary organization matches amounts deposited by the account holder according to a formula established by the fiduciary organization. The fiduciary organization shall maintain on deposit in the account not less than \$1 nor more than \$5 for each \$1 deposited by the account holder.

(b) The matching deposits by the fiduciary organization to the individual development account are placed in:

(A) A savings account jointly held by the account holder and the fiduciary organization and requiring the signatures of both for withdrawals;

(B) A savings account that is controlled by the fiduciary organization and is separate from the savings account of the account holder; or

(C) In the case of an account established for the purpose described in ORS 458.685 (1)(c), a savings network account for higher education under ORS 178.300 to 178.355, in which the fiduciary organization is the account owner as defined in ORS 178.300.

(2) Account holders may not accrue more than \$3,000 of matching funds under subsection (1) of this section from state-directed moneys in any 12-month period. A fiduciary organization may designate a lower amount as a limit on annual matching funds. A fiduciary organization shall maintain on deposit sufficient funds to cover the matching deposit agreements for all individual development accounts managed by the organization.

(3) The Housing and Community Services Department shall adopt rules to establish a maximum total amount of state-directed moneys that may be deposited as matching funds into an individual development account.

**(4) The Housing and Community Services Department shall provide information to the Department of Revenue about all individual development account contributors that are qualified for a tax credit under ORS 315.271, if required by section 3 of this 2019 Act.**

## REPEAL OF DUPLICATIVE PROVISIONS

**SECTION 25.** ORS 315.172, 315.179, 315.181 and 469B.407 are repealed.

## APPLICABILITY DATE

**SECTION 26.** Section 2 of this 2019 Act applies to tax credits that are transferred on or after January 1, 2020.

## CAPTIONS

**SECTION 27.** The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

## EFFECTIVE DATE

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

Approved by the Governor June 25, 2019  
Filed in the office of Secretary of State June 26, 2019  
Effective date September 29, 2019