

Requested by Representative BARNHART

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4028**

1 On page 5 of the printed bill, delete lines 19 through 45.

2 Delete pages 6 and 7.

3 On page 8, delete lines 1 through 17 and insert:

4 **“SECTION 4.** ORS 317.097 is amended to read:

5 “317.097. (1) As used in this section:

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

9 “(b) ‘Finance charge’ means the total of all interest, loan fees, interest  
10 on any loan fees financed by the lending institution, and other charges re-  
11 lated to the cost of obtaining credit.

12 “(c) ‘Lending institution’ means any insured institution, as that term is  
13 defined in ORS 706.008, any mortgage banking company that maintains an  
14 office in this state or any community development corporation that is or-  
15 ganized under the Oregon Nonprofit Corporation Law.

16 “(d) ‘Manufactured dwelling park’ has the meaning given that term in  
17 ORS 446.003.

18 “(e) ‘Nonprofit corporation’ means a corporation that is exempt from in-  
19 come taxes under section 501(c)(3) or (4) of the Internal Revenue Code as  
20 amended and in effect on December 31, 2016.

21 “(f) ‘Preservation project’ means housing that was previously developed

1 as affordable housing with a contract for rent assistance from the United  
2 States Department of Housing and Urban Development or the United States  
3 Department of Agriculture and that is being acquired by a sponsoring entity.

4 “(g) ‘Qualified assignee’ means any investor participating in the second-  
5 ary market for real estate loans.

6 “(h) ‘Qualified borrower’ means any borrower that is a sponsoring entity  
7 that has a controlling interest in the real property that is financed by a  
8 qualified loan. A controlling interest includes[, *but is not limited to,*] a con-  
9 trolling interest in the general partner of a limited partnership that owns  
10 the real property.

11 “(i) ‘Qualified loan’ means:

12 “(A) A loan that meets the criteria stated in subsection (5) of this section  
13 or that is made to refinance a loan that meets the criteria described in sub-  
14 section (5) of this section; or

15 “(B) The purchase by a lending institution of bonds, as defined in ORS  
16 286A.001, issued on behalf of the Housing and Community Services Depart-  
17 ment, the proceeds of which are used to finance or refinance a loan that  
18 meets the criteria described in subsection (5) of this section.

19 “(j) ‘Sponsoring entity’ means a nonprofit corporation, nonprofit cooper-  
20 ative, state governmental entity, local unit of government as defined in ORS  
21 466.706, housing authority or any other person, provided that the person has  
22 agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit  
23 cooperative, state governmental entity, local unit of government or housing  
24 authority.

25 “(2) The Department of Revenue shall allow a credit against taxes other-  
26 wise due under this chapter for the taxable year to a lending institution that  
27 makes a qualified loan certified by the Housing and Community Services  
28 Department as provided in subsection (7) of this section. The amount of the  
29 credit is equal to the difference between:

30 “(a) The amount of finance charge charged by the lending institution

1 during the taxable year at an annual rate less than the market rate for a  
2 qualified loan that is made before January 1, 2026, that complies with the  
3 requirements of this section; and

4 “(b) The amount of finance charge that would have been charged during  
5 the taxable year by the lending institution for the qualified loan for housing  
6 construction, development, acquisition or rehabilitation measured at the an-  
7 nual rate charged by the lending institution for nonsubsidized loans made  
8 under like terms and conditions at the time the qualified loan for housing  
9 construction, development, acquisition or rehabilitation is made.

10 “(3) The maximum amount of credit for the difference between the  
11 amounts described in subsection (2)(a) and (b) of this section may not exceed  
12 four percent of the average unpaid balance of the qualified loan during the  
13 tax year for which the credit is claimed.

14 “(4) Any tax credit allowed under this section that is not used by the  
15 taxpayer in a particular year may be carried forward and offset against the  
16 taxpayer’s tax liability for the next succeeding tax year. Any credit remain-  
17 ing unused in the next succeeding tax year may be carried forward and used  
18 in the second succeeding tax year, and likewise, any credit not used in that  
19 second succeeding tax year may be carried forward and used in the third  
20 succeeding tax year, and any credit not used in that third succeeding tax  
21 year may be carried forward and used in the fourth succeeding tax year, and  
22 any credit not used in that fourth succeeding tax year may be carried for-  
23 ward and used in the fifth succeeding tax year, but may not be carried for-  
24 ward for any tax year thereafter.

25 “(5) To be eligible for the tax credit allowable under this section, a  
26 lending institution must make a qualified loan by either purchasing bonds,  
27 as defined in ORS 286A.001, issued on behalf of the Housing and Community  
28 Services Department, the proceeds of which are used to finance or refinance  
29 a loan that meets the criteria stated in this subsection, or by making a loan  
30 directly to:

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

5       “(b) A qualified borrower who:

6       “(A) Uses the loan proceeds to finance construction, development, acqui-  
7 sition or rehabilitation of housing; and

8       “(B) Provides a written certification executed by the Housing and Com-  
9 munity Services Department that the:

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

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

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

16       “(A) Uses the loan proceeds to finance construction, development, acqui-  
17 sition or rehabilitation of housing consisting of a manufactured dwelling  
18 park; and

19       “(B) Provides a written certification executed by the Housing and Com-  
20 munity Services Department that the housing will continue to be operated  
21 as a manufactured dwelling park during the period for which the tax credit  
22 is allowed; or

23       “(d) A qualified borrower who:

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

26       “(B) Provides a written certification executed by the Housing and Com-  
27 munity Services Department that the housing preserved by the loan:

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

30       “(ii) Is the subject of a rent assistance contract with the United States

1 Department of Housing and Urban Development or the United States De-  
2 partment of Agriculture that will be maintained by the qualified borrower.

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

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

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

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

14 “(8) The Housing and Community Services Department may certify quali-  
15 fied loans that are eligible under subsection (5) of this section if the total  
16 credits attributable to all qualified loans eligible for credits under this sec-  
17 tion and then outstanding do not exceed \$25 million for any fiscal year. In  
18 making loan certifications under subsection (7) of this section, the Housing  
19 and Community Services Department shall attempt to distribute the tax  
20 credits statewide, but shall concentrate the tax credits in those areas of the  
21 state that are determined by the Oregon Housing Stability Council to have  
22 the greatest need for affordable housing.

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

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

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

30 “(10) For a qualified loan defined in subsection (1)(i)(B) of this section

1 financed through the purchase of bonds, the interest of which is exempt from  
2 federal taxation under section 103 of the Internal Revenue Code, the amount  
3 of finance charge that would have been charged under subsection (2)(b) of  
4 this section is determined by reference to the finance charge that would have  
5 been charged if the federally tax exempt bonds had been issued and the tax  
6 credit under this section did not apply.

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

13 “(12) Notwithstanding any other provision of law, a lending institution  
14 that is a community development corporation organized under the Oregon  
15 Nonprofit Corporation Law may transfer all or part of a tax credit allowed  
16 under this section to one or more other lending institutions that are stock-  
17 holders or members of the community development corporation or that oth-  
18 erwise participate through the community development corporation in the  
19 making of one or more qualified loans for which the tax credit under this  
20 section is allowed.

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

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

29 “(a) A nonprofit corporation, manufactured dwelling park nonprofit co-  
30 operative, state governmental entity, local unit of government as defined in

1 ORS 466.706 or housing authority; or

2 **“(b) A nonprofit corporation or housing authority that has a con-**  
3 **trolling interest in the real property that is financed by a qualified**  
4 **loan. A controlling interest includes a controlling interest in the gen-**  
5 **eral partner of a limited partnership that owns the real property.**

6 “(15) The Housing and Community Services Department and the Depart-  
7 ment of Revenue may adopt rules to carry out the provisions of this  
8 section.”.

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