

C-Engrossed
House Bill 4007

Ordered by the House March 2
Including House Amendments dated February 19 and February 26 and
March 2

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Human Services and Housing)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits individual to create first-time home buyer savings account with financial institution to pay or reimburse account holder's eligible costs for first-time purchase of single family residence.

Allows subtraction from account holder's federal taxable income of amounts contributed to first-time home buyer savings account during each tax year. Exempts from taxation amount of interest and other income earned on account. Establishes amount and time limitations on subtractions and exemptions from taxable income. Provides that withdrawals for purposes other than approved purposes are taxable income to account holder **and subject to penalty**.

Applies to tax years beginning on or after January 1, 2019, and before January 1, [2027] **2037**.

Increases amount of fees charged and collected by county clerks to record or file certain real property documents and transferred to Housing and Community Services Department accounts for housing-related programs. Exempts county tax collectors from paying certain fees.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to housing; creating new provisions; amending ORS 205.323, 306.815 and 458.655; prescrib-
3 ing an effective date; and providing for revenue raising that requires approval by a three-fifths
4 majority.

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

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

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

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

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

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

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

20 (4) "Financial institution" means a bank, a trust company, a commercial bank, a national
21 bank, a savings bank, a savings and loan, a thrift institution, a credit union, an insurance

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 company, a mutual fund, an investment firm or a similar entity authorized to do business
2 in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 **SECTION 4.** (1) Subject to section 6 of this 2018 Act, and in addition to the other mod-
43 ifications to federal taxable income contained in this chapter, there shall be subtracted from
44 federal taxable income the amount of funds contributed by an account holder to the account
45 holder's first-time home buyer savings account during the tax year, not to exceed \$5,000 for

1 an account holder who files an individual income tax return or \$10,000 for joint account
2 holders who file a joint income tax return.

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

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

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

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

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

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

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

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

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

22 (b) \$8,000 if reported on a joint income tax return, or \$4,000 for all others, if the federal
23 adjusted gross income of the taxpayer for the tax year is \$149,000 or more and less than
24 \$158,000 or, if reported on other than a joint return, \$104,000 or more and less than \$111,000.

25 (c) \$6,000 if reported on a joint income tax return, or \$3,000 for all others, if the federal
26 adjusted gross income of the taxpayer for the tax year is \$158,000 or more and less than
27 \$167,000 or, if reported on other than a joint return, \$111,000 or more and less than \$117,000.

28 (d) \$4,000 if reported on a joint income tax return, or \$2,000 for all others, if the federal
29 adjusted gross income of the taxpayer for the tax year is \$167,000 or more and less than
30 \$176,000 or, if reported on other than a joint return, \$117,000 or more and less than \$123,000.

31 (e) \$2,000 if reported on a joint income tax return, or \$1,000 for all others, if the federal
32 adjusted gross income of the taxpayer for the tax year is \$176,000 or more and less than
33 \$187,000 or, if reported on other than a joint return, \$123,000 or more and less than \$131,000.

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) A taxpayer who is deceased;

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

26 (c) A taxpayer whose loss of use or function of any portion of the body permanently in-
27 capacitates the taxpayer from regularly performing work at a gainful and suitable occupa-
28 tion.

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

32 (a) The date when the account was created;

33 (b) The name of the account holder;

34 (c) The amount of funds contributed to the account during the tax year;

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

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

37 (2) A financial institution is not required to:

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

40 (b) Allocate funds in a first-time home buyer savings account among joint account hold-
41 ers.

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

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

45 (b) Determining or ensuring that funds in a first-time home buyer savings account are

1 used for eligible costs; or

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

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

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

11 **SECTION 10.** ORS 205.323 is amended to read:

12 205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320
13 and other fees, the county clerk shall charge and collect the following fees for the recording or fil-
14 ing of any instrument described in ORS 205.130:

- 15 (a) A fee of \$1, to be credited as provided in subsection (4)(a) of this section;
- 16 (b) A fee of \$10, to be credited as provided in subsection (4)(b) of this section; and
- 17 (c) A fee of [~~\$20~~] **\$60**, to be credited as provided in subsection (4)(c) of this section.

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

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

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

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

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

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

25 (b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and
26 657.646; or

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

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

30 (a) The recording or filing fee charged and collected under subsection (1)(a) of this section must
31 be deposited and credited to the Oregon Land Information System Fund established under ORS
32 306.132.

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

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

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

38 (C) 90 percent of the fee must be credited to and deposited in the County Assessment and Tax-
39 ation Fund created under ORS 294.187.

40 (c) The recording or filing fee charged and collected under subsection (1)(c) of this section must
41 be credited to and deposited in the County Assessment and Taxation Fund created under ORS
42 294.187.

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

45 **SECTION 11.** ORS 306.815 is amended to read:

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

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

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

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

11 (5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the
12 transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the re-
13 cording or filing of the instrument conveying the real property being transferred, is less than [§32]
14 **\$107.**

15 **SECTION 12.** ORS 458.655 is amended to read:

16 458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and
17 Community Services Department to expand this state's supply of homeownership housing for [*low*
18 *and very low income*] families and individuals **who the Oregon Housing Stability Council deter-**
19 **mines, based on information from the United States Department of Housing and Urban De-**
20 **velopment, have income that is not more than 100 percent of median family income**, including,
21 but not limited to, persons over 65 years of age, persons with disabilities, minorities, veterans and
22 farmworkers. An amount equal to 25 percent of moneys deposited in the account pursuant to ORS
23 294.187 is dedicated for expenditure to expand this state's supply of homeownership housing for low
24 and very low income veterans and families of veterans. The [*Oregon Housing Stability*] council shall
25 have a policy of distributing funds statewide while concentrating funds in those areas of this state
26 with the greatest need, as determined by the council, for low and very low income homeownership
27 housing. However, the council's policy of distributing funds may differ from the distribution policy
28 for the Housing Development and Guarantee Account.

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

33 (3) The council shall develop a policy for disbursing grants for any or all of the following pur-
34 poses:

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

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

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

45 (4) The council, in developing policy under subsection (3) of this section, shall give preference

1 in making grants to those entities that propose to:

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

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

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

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

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

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

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

28