

Enrolled House Bill 2095

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CHAPTER

AN ACT

Relating to housing authorities; creating new provisions; amending ORS 307.092, 456.055, 456.065, 456.095, 456.120, 456.125, 456.153, 456.160 and 457.190; and repealing ORS 456.170.

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

SECTION 1. Sections 2 and 3 of this 2007 Act are added to and made a part of ORS 456.055 to 456.235.

SECTION 2. At least once each year, a housing authority shall procure an independent audit of authority finances and activities for the preceding year, make the audit available for inspection by the public and provide a copy of the audit to each governing body that appoints the housing authority commissioners.

SECTION 3. No person other than a housing authority created under ORS 456.055 to 456.235 may use the term "housing authority" or a variation of the term "housing authority" in the corporate or other business name or title of the person. Any housing authority may bring a civil suit to enjoin a violation of this section, regardless of whether the housing authority shows that the authority will suffer damage from the violation.

SECTION 4. ORS 307.092 is amended to read:

307.092. (1) As used in this section, "property of a housing authority" includes, but is not limited to:

(a) Property that is held under lease or lease purchase agreement by the housing authority; and

(b) Property of a partnership, nonprofit corporation or limited liability company for which the housing authority is a general partner, limited partner, director, member, manager or general manager, if the property is leased or rented to persons of lower income for housing purposes.

[(1)] (2) Except as provided in subsection [(2)] (3) of this section, the property of a housing authority, including property held under lease or lease purchase agreement by the authority, or property of a partnership wherein the authority is general partner or general manager, which partnership property is leased or rented to persons of lower income for housing purposes, is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof. In lieu of such taxes or special assessments, an authority may agree to make payments to the city, county or any such political subdivision for improvements, services and facilities furnished by such city, county or political subdivision for the benefit of a housing

project, but in no event shall such payments exceed the estimated cost to the city, county or political subdivision of the improvements, services or facilities to be so furnished.

[(2)] (3) The provisions of subsection [(1)] (2) of this section regarding exemption from taxes and special assessments shall not apply to property of the housing authority that is commercial property leased to a taxable entity.

SECTION 5. ORS 456.055 is amended to read:

456.055. As used in the Housing Authorities Law, unless the context requires otherwise:

(1) “Affordable housing” means *[housing for which persons or families pay 30 percent or less of their gross income for housing, including necessary and essential utilities.]* **dwelling units that may be purchased or rented, with or without government assistance, by persons of eligible income.**

(2) **“Blighted area” means any area where housing, by reason of neglect and dilapidation, is detrimental to the safety or health of the occupants or of the neighborhood in which the housing is located.**

[(2)] (3) “Bonds” means any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to the Housing Authorities Law. The giving of a note secured by a mortgage or trust deed will not constitute a bond.

[(3)] (4) “The city” means the particular city included within a particular housing authority.

[(4)] (5) “Clerk” means the recorder of the city or the clerk of the county, as the case may be, or the officer of the city or the county, respectively, charged with the duties customarily imposed on such clerk.

[(5)] (6) “County” means any county in the state. “The county” means a particular county or counties for which a particular housing authority is created.

[(6)] (7) “Governing body” means, in the case of a city, the common council or other legislative body thereof, and, in the case of a county, the county court, commission or other legislative body thereof.

[(7)] (8) “Housing” means housing of all kinds, including but not limited to single-family dwellings, multifamily dwellings, emergency shelters, dwelling accommodations, living accommodations, **manufactured dwelling parks**, residential units, housing projects or other dwellings.

[(8)] (9) “Housing unit” or “unit” means a single-family dwelling, a single apartment or other single dwelling.

[(9)] (10) “Mixed income housing” means a housing project that houses tenants with a mixture of income levels, including those not of lower income, for the purpose of reducing the rents for tenants whose incomes are no greater than 60 percent of the area median income.

[(10)] (11) “Obligee of the authority” or “obligee” includes any bondholder or trustee for any bondholder, or lessor demising to the authority property used in connection with a housing project, or any assignee of such lessor’s interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(12) **“Persons of eligible income” means individuals or families who meet the applicable income limits of local, state or federally funded programs or developments.**

[(11)] (13) “Private market” means those rental housing units owned and operated by nongovernment entities and without government subsidies.

[(12)] (14) “Person of lower income” *[and] or “family of lower income”* means a person or a family, residing in this state, *[who cannot obtain in the open market, decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of such person or family.]* **whose income is not greater than 80 percent of the area median income, adjusted for family size, as determined by the Housing and Community Services Department using United States Department of Housing and Urban Development information.**

[(13)] *“Person of very low income” or “family of very low income” means a person or a family whose income is no greater than 50 percent of the area median income, adjusted for family size, as determined by the Housing and Community Services Department.*

[(14)] **(15)** “Real property” includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

[(15)] “Slum” means any area where housing, by reason of neglect and dilapidation, is detrimental to the safety or health of the occupants, or the neighborhood in which it is located.]

SECTION 6. ORS 456.065 is amended to read:

456.065. (1) **As used in this section:**

(a) **“Community services” means services provided by public or private nonprofit organizations or service agencies that may include, but are not limited to, child care, early childhood education, health, human resources, information and referral services, basic life skills and adult literacy classes, support services designed to improve self-sufficiency and recreational programs.**

(b) **“Community services facilities” includes, but is not limited to, all buildings, grounds or other real or personal property necessary to provide a public benefit, appurtenances that are necessary, convenient or desirable, streets, sewers, water service and other utilities, parks and gardens.**

[(1)] **(2)** As used in the Housing Authorities Law, unless the context requires otherwise, “housing project” means any work or undertaking:

[(a)] *To demolish, clear or remove buildings from any slum area. Such work or undertaking may embrace the adaptation of such area to public purposes, including housing, parks, community services facilities or other recreational, educational, cultural or community purposes.*

[(b)] **(a)** To provide decent, safe and sanitary urban or rural housing for persons or families of lower income. [Such] **A work or undertaking described in this paragraph** may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service and other utilities, parks, site preparation, gardening, administrative, community services, leased commercial facilities consistent with mixed residential and commercial communities, health, recreational, educational, welfare or other purposes authorized under ORS 456.055 to 456.235.

[(c)] **(b)** To provide community services facilities for the benefit of the health, recreation, education, culture and welfare of the entire community, without regard to the economic status of the persons or families [which] **who** may utilize [them] **the facilities**. [Community services facilities may include, but not be limited to, all necessary real or personal property, buildings and grounds together with all necessary, convenient or desirable appurtenances, streets, sewers, water service and other utilities, parks and gardens.]

(c) To demolish, clear or remove buildings from any blighted area. A work or an undertaking described in this paragraph may embrace the adaptation of the area to public purposes, including housing, parks, community services facilities or other recreational, educational, cultural or community purposes.

(d) To accomplish a combination of the projects [listed] **described** in paragraphs (a), (b) and (c) of this subsection, [but it may also be applied to] **or accomplish** the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection [there-with] **with those projects**.

(e) To provide management, administration and contract services between the housing authority and owners of decent, safe and sanitary housing for the purpose of providing [housing assistance payments to owners on behalf of eligible families] **affordable housing to persons of eligible income**.

[(2)] *For purposes of this section, “community services” means services provided by public or private nonprofit organizations or service agencies that may include, but are not limited to, child care, early childhood education, health, human resources, information and referral services, basic life skills and*

adult literacy classes, support services designed to improve self-sufficiency, and recreational programs.]

SECTION 7. ORS 456.095 is amended to read:

456.095. (1) When the governing body of a city or county adopts a resolution pursuant to ORS 456.085, the governing body may then elect to have the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547 exercised in any of the following ways:

(a) Appointing by resolution, a commission composed of five, seven or nine persons.

(b) Declaring, by resolution, that the governing body, itself, shall exercise the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547. A governing body that exercises the powers of a housing authority may appoint at least one but not more than two additional commissioners for the housing authority. An appointed commissioner has the same authority as other housing authority commissioners, but may not exercise any powers of the governing body. At least one appointed commissioner must be a resident who receives direct assistance from the housing authority. The second appointed commissioner, if any, at a minimum must live within the jurisdiction of the authority. An appointed commissioner serves a term of office equal in length to the terms of office for governing body members, but not more than four years. An appointed commissioner may be removed only for cause as described in ORS 456.110 or if the commissioner ceases to meet the requirements for being an appointed commissioner. In the event that a housing authority commission consisting of the governing body of a city and one or more appointed commissioners has an even number of members, the mayor shall be included as a member of the commission for the housing authority. An act of a governing body exercising the powers of a housing authority is an act of the commission for the housing authority only and not of the governing body.

(2) When the governing bodies of two or more authorities join and cooperate with one another and create a regional authority to exercise all the powers conferred by the Housing Authorities Law, as authorized by ORS 456.140, the governing bodies of the cooperating cities and counties shall by resolution appoint a commission for the regional authority consisting of nine persons. The cooperating cities and counties shall each appoint an equal number of the nine commissioners. If nine divided by the number of joining or cooperating cities and counties produces a fraction, then the commissioners appointed by such cities and counties shall appoint one commissioner so that nine commissioners in all are appointed. The nine commissioners appointed by or on behalf of cities or counties may appoint at least one but not more than two additional commissioners for the housing authority. At least one additional commissioner must be a resident who receives direct assistance from the housing authority. The second additional commissioner, if any, at a minimum must live within the jurisdiction of the authority. The term of office for an additional commissioner is equal to the term of office for a commissioner appointed by or on behalf of cities or counties. An additional commissioner may be removed only for cause as described under ORS 456.110 or if the person ceases to meet the requirements for being an additional commissioner.

(3) A commissioner of an authority may not be an officer or employee of any city or county for which the authority is created, unless the commissioner is a member of the governing body or one of the governing bodies.

(4) Persons appointed to the commission shall include a variety of occupations. At least one commissioner, but not more than two commissioners, appointed under subsection (1)(a) of this section must be a resident who receives direct assistance from the housing authority.

[(5) A certificate of appointment or reappointment of any commissioners shall be filed with the clerk of each of the cities and counties included in the authority. Such certificate shall be conclusive evidence of the due and proper appointment of a commissioner.]

(5) A governing body shall adopt a resolution for the appointment or reappointment of a commissioner. A governing body resolution is conclusive evidence that the commissioner was properly appointed.

SECTION 8. ORS 456.120 is amended to read:

456.120. A housing authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes of the Housing Authorities Law. These powers shall be vested in the commissioners of the authority and shall include the following in addition to others granted in the Housing Authorities Law:

- (1) To sue and be sued.
- (2) To have a seal and to alter the same at pleasure.
- (3) To have perpetual succession.
- (4) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.
- (5) To make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with the Housing Authorities Law, to carry into effect the powers and purposes of the authority.
- (6) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof.
- (7) Notwithstanding any laws to the contrary, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government attaches to its financial aid of the project.
- (8) To lease or rent any housing, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations of the Housing Authorities Law, to establish and revise the rents or charges therefor.
- (9) To own, hold and improve real or personal property.
- (10) To purchase, buy on contract, exchange, lease, lease back, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein and to give its mortgage or trust deed covering any real property or security agreement covering any personal property or any interest in either.
- (11) To sell, mortgage, lease, rent, exchange, transfer, assign, pledge or otherwise dispose of any real or personal property or any interest therein.
- (12) To insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.
- (13) To procure insurance or guarantees from the federal government of the payment of any debts or parts thereof, whether or not incurred by said authority, secured by mortgages on any property included in any of its housing projects.
- (14) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or any investment in which an Oregon city may legally invest surplus funds, and, in addition, to invest bond proceeds and amounts held in bond payment, reserve and proceeds accounts in investment agreements that:
 - (a) Produce a guaranteed rate of return;
 - (b) Are fully collateralized by direct obligations of, or obligations guaranteed by, the United States; and
 - (c) Require that the collateral be held by the authority, an agent of the authority or a third-party safekeeping agent.
- (15) To purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.
- (16) To exercise all or any part or combination of powers granted in the Housing Authorities Law.
- (17) To borrow money pursuant to ORS 456.055 to 456.235 or as otherwise allowed and accept advances, loans or grants or any other form of financial assistance or any combination of these forms of assistance from the federal government, state, county or other public body, or from any sources, public or private, for the purpose of undertaking and carrying out housing projects.

(18) To enter in a partnership agreement with or loan money to an individual, partnership, corporation or other association to finance, plan, undertake, construct, acquire, **manage** or operate a housing project.

(19) To finance, **develop, own, operate or manage** a mixed income housing project that [*will not be owned by the authority and*] meets the following requirements:

(a) No fewer than 20 percent of the units in the project so financed shall be rented to households with incomes of 50 percent or less of area median income;

(b) No fewer than 40 percent of the units in the project so financed shall be rented to households with incomes of 60 percent or less of area median income; or

(c) The minimum requirements imposed by any federal tax law that is applicable to the project.

(20) To form, finance and have a nonstock interest in, and to manage or operate, partnerships, nonprofit corporations and limited liability companies in order to further the purposes of the housing authority.

SECTION 9. ORS 456.125 is amended to read:

456.125. Within its area of operation, a housing authority may:

(1) Investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions by either the housing authority or the private market.

(2) Determine where [*slum*] **blighted** areas exist or where there is a shortage of decent, safe and sanitary housing for persons or families of lower income.

(3) Make studies and recommendations relating to the problem of clearing, replanning and reconstructing [*slum*] **blighted** areas to provide affordable housing and the problem of providing housing for persons or families of lower income. An authority is encouraged to cooperate with the private market and the city, county or state or any of their political subdivisions in action taken in connection with identifying and solving such problems.

(4) Engage in research, studies and experimentation on the subject of housing.

(5) Prepare, carry out, acquire, lease and operate housing projects.

(6) Provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

SECTION 10. ORS 456.153 is amended to read:

456.153. A housing authority may finance, **develop, own, manage or operate** a mixed income housing project if:

(1) The housing authority determines that a substantial number of persons [*or families of very low*] **of eligible** income in the area served by the authority cannot obtain housing for 30 percent or less of their income.

(2) Based on the determination under subsection (1) of this section, the housing authority adopts a resolution declaring the need for additional housing for persons or families of lower income that can be addressed by the [*provision of financing for*] **authority financing, developing, owning, managing or operating** a mixed income housing project.

SECTION 11. ORS 456.160 is amended to read:

456.160. In the operation or management of housing projects, a housing authority shall at all times observe the following duties with respect to rentals and tenant selection:

(1) [*It*] **A housing authority** may rent or lease the housing only to persons [*or families of lower*] **of eligible** income, except:

(a) [*Where an authority enters into a lease agreement under which the authority manages housing for the owner thereof,*] **If the authority owns, operates or manages the housing and** a substantial number of **the** housing units [*shall*] **are required to** be rented or leased to persons [*or families of lower*] **of eligible** income; or

(b) [*When an acquisition of*] **If the authority acquires** an existing housing unit **that** houses a tenant not of [*lower*] **eligible** income, the tenant may remain in the unit at the discretion of the authority, unless the tenant is determined ineligible for reasons other than income qualification.

(2) [*It*] **A housing authority** may rent or lease the housing at rents no higher than will provide revenue sufficient to give financial stability to the housing authority. [*However,*] This limitation

[shall] does not apply to housing units that are **owned, operated or managed as described in subsection (1) of this section if the units are** not occupied by families receiving assistance from an authority *[where an authority manages such units pursuant to a lease agreement with the owner thereof in accordance with subsection (1) of this section]*.

SECTION 12. ORS 457.190 is amended to read:

457.190. (1) An urban renewal agency may borrow money and accept advances, loans, grants and any other form of financial assistance from the federal government, the state, county or other public body, or from any sources, public or private, for the purposes of undertaking and carrying out urban renewal projects.

(2) An urban renewal agency may do all things necessary or desirable to secure such financial aid, including obligating itself in any contract with the federal government for federal financial aid to convey to the federal government the project to which the contract relates upon the occurrence of a substantial default thereunder, in the same manner as a housing authority may do to secure such aid in connection with *[slum]* **blighted area** clearance and housing projects under the Housing Authorities Law.

(3)(a) Each urban renewal plan adopted by ordinance on or after July 14, 1997, that provides for a division of taxes pursuant to ORS 457.440 shall include in the plan the maximum amount of indebtedness that may be issued or incurred under the plan. Notwithstanding subsection (1) of this section, if a maximum amount of indebtedness is not included in the plan, the urban renewal agency may not issue indebtedness for which taxes divided under ORS 457.440 are to be pledged to carry out the plan.

(b) Each urban renewal plan adopted by ordinance on or after December 6, 1996, and before July 14, 1997, that provides for a division of taxes pursuant to ORS 457.440 but does not include a maximum amount of indebtedness that may be issued or incurred under the plan shall be changed, by substantial plan amendment pursuant to ORS 457.220, to include the maximum amount of indebtedness that may be issued or incurred under the plan before July 1, 2000. Notwithstanding subsection (1) of this section, if a maximum amount of indebtedness is not included in the plan on or before July 1, 2000, the urban renewal agency may not on or after July 1, 2000, issue indebtedness for which taxes divided under ORS 457.440 are to be pledged to carry out the plan.

(c)(A) Each existing urban renewal plan that provides for a division of taxes pursuant to ORS 457.420 to 457.460 may be changed by substantial amendment no later than July 1, 1998, to include a maximum amount of indebtedness that may be issued or incurred under the plan determined as described in subparagraph (B) of this paragraph. The additional notices required under ORS 457.120 are not required for an amendment adopted pursuant to this paragraph.

(B) The maximum amount of indebtedness that may be issued or incurred under the plan, as determined for purposes of meeting the requirements of this paragraph, shall be based upon good faith estimates of the scope and costs of projects, including but not limited to increases in costs due to reasonably anticipated inflation, in the existing urban renewal plan and the schedule for their completion as completion dates were anticipated as of December 5, 1996. The maximum amount of indebtedness shall be specified in dollars and cents.

(C) Notwithstanding subsection (1) of this section, if a maximum amount of indebtedness is not adopted for an existing urban renewal plan as described in this paragraph before July 1, 1998, the urban renewal agency may not collect funds under ORS 457.435.

SECTION 13. ORS 456.170 is repealed.

Passed by House March 14, 2007

Repassed by House June 8, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 6, 2007

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President of Senate

Received by Governor:

.....M,....., 2007

Approved:

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Governor

Filed in Office of Secretary of State:

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Secretary of State