

# House Bill 2095

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Housing and Community Services Department)

## 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 **as introduced**.

Allows housing authority to own mixed income housing project. Allows housing authority to form, finance, have nonstock interest in and operate partnerships, nonprofit corporations and limited liability companies to further purposes of housing authority.

Replaces requirement for annual housing authority report with requirement for annual audit. Changes means for proving proper appointment of housing authority commissioner.

Revises definitions for affordable housing and for persons meeting housing authority income criteria.

## A BILL FOR AN ACT

1  
2 Relating to housing authorities; creating new provisions; amending ORS 456.055, 456.065, 456.095,  
3 456.120, 456.153 and 456.160; and repealing ORS 456.170.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 456.055 to**  
6 **456.235.**

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

11 **SECTION 3. ORS 456.055 is amended to read:**

12 456.055. As used in the Housing Authorities Law, unless the context requires otherwise:

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

17 (2) "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued  
18 by an authority pursuant to the Housing Authorities Law. The giving of a note secured by a mort-  
19 gage or trust deed will not constitute a bond.

20 (3) "The city" means the particular city included within a particular housing authority.

21 (4) "Clerk" means the recorder of the city or the clerk of the county, as the case may be, or the  
22 officer of the city or the county, respectively, charged with the duties customarily imposed on such  
23 clerk.

24 (5) "County" means any county in the state. "The county" means a particular county or counties  
25 for which a particular housing authority is created.

26 (6) "Governing body" means, in the case of a city, the common council or other legislative body  
27 thereof, and, in the case of a county, the county court, commission or other legislative body thereof.

28 (7) "Housing" means housing of all kinds, including but not limited to single-family dwellings,

**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 multifamily dwellings, emergency shelters, dwelling accommodations, living accommodations, resi-  
 2 dential units, housing projects or other dwellings.

3 (8) "Housing unit" or "unit" means a single-family dwelling, a single apartment or other single  
 4 dwelling.

5 (9) "Mixed income housing" means a housing project that houses tenants with a mixture of in-  
 6 come levels, including those not of lower income, for the purpose of reducing the rents for tenants  
 7 whose incomes are no greater than 60 percent of the area median income.

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

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

14 [(11)] (12) "Private market" means those rental housing units owned and operated by nongov-  
 15 ernment entities and without government subsidies.

16 [(12)] (13) "Person of lower income" [and] or "family of lower income" means a person or a  
 17 family, residing in this state, [who cannot obtain in the open market, decent, safe and sanitary housing,  
 18 including the costs of utilities and taxes, for 25 percent of the gross income of such person or family.]  
 19 **whose income is not greater than 80 percent of the area median income, adjusted for family**  
 20 **size, as determined by the Housing and Community Services Department using United States**  
 21 **Department of Housing and Urban Development information.**

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

25 (14) "Real property" includes all lands, including improvements and fixtures thereon, and prop-  
 26 erty of any nature appurtenant thereto, or used in connection therewith, and every estate, interest  
 27 and right, legal or equitable, therein, including terms for years and liens by way of judgment,  
 28 mortgage or otherwise and the indebtedness secured by such liens.

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

31 **SECTION 4.** ORS 456.065 is amended to read:

32 456.065. (1) **As used in this section:**

33 (a) **"Community services" means services provided by public or private nonprofit organ-**  
 34 **izations or service agencies that may include, but are not limited to, child care, early child-**  
 35 **hood education, health, human resources, information and referral services, basic life skills**  
 36 **and adult literacy classes, support services designed to improve self-sufficiency and recre-**  
 37 **ational programs.**

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

42 [(1)] (2) As used in the Housing Authorities Law, unless the context requires otherwise, "hous-  
 43 ing project" means any work or undertaking:

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

1 *facilities or other recreational, educational, cultural or community purposes.]*

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

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

15 (c) **To demolish, clear or remove buildings from any slum area. A work or an undertaking**  
 16 **described in this paragraph may embrace the adaptation of the area to public purposes, in-**  
 17 **cluding housing, parks, community services facilities or other recreational, educational, cul-**  
 18 **tural or community purposes.**

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

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

28 [(2) *For purposes of this section, "community services" means services provided by public or private*  
 29 *nonprofit organizations or service agencies that may include, but are not limited to, child care, early*  
 30 *childhood education, health, human resources, information and referral services, basic life skills and*  
 31 *adult literacy classes, support services designed to improve self-sufficiency, and recreational*  
 32 *programs.*]

33 **SECTION 5.** ORS 456.095 is amended to read:

34 456.095. (1) When the governing body of a city or county adopts a resolution pursuant to ORS  
 35 456.085, the governing body may then elect to have the powers of a housing authority under this  
 36 chapter, ORS chapter 455 and ORS 446.515 to 446.547 exercised in any of the following ways:

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

38 (b) Declaring, by resolution, that the governing body, itself, shall exercise the powers of a  
 39 housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547. A governing  
 40 body that exercises the powers of a housing authority may appoint at least one but not more than  
 41 two additional commissioners for the housing authority. An appointed commissioner has the same  
 42 authority as other housing authority commissioners, but may not exercise any powers of the gov-  
 43 erning body. At least one appointed commissioner must be a resident who receives direct assistance  
 44 from the housing authority. The second appointed commissioner, if any, at a minimum must live  
 45 within the jurisdiction of the authority. An appointed commissioner serves a term of office equal in

1 length to the terms of office for governing body members, but not more than four years. An ap-  
 2 pointed commissioner may be removed only for cause as described in ORS 456.110 or if the com-  
 3 missioner ceases to meet the requirements for being an appointed commissioner. In the event that  
 4 a housing authority commission consisting of the governing body of a city and one or more ap-  
 5 pointed commissioners has an even number of members, the mayor shall be included as a member  
 6 of the commission for the housing authority. An act of a governing body exercising the powers of  
 7 a housing authority is an act of the commission for the housing authority only and not of the gov-  
 8 erning body.

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

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

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

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

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

36 **SECTION 6.** ORS 456.120 is amended to read:

37 456.120. A housing authority shall constitute a public body corporate and politic, exercising  
 38 public and essential governmental functions, and having all the powers necessary or convenient to  
 39 carry out and effectuate the purposes of the Housing Authorities Law. These powers shall be vested  
 40 in the commissioners of the authority and shall include the following in addition to others granted  
 41 in the Housing Authorities Law:

- 42 (1) To sue and be sued.
- 43 (2) To have a seal and to alter the same at pleasure.
- 44 (3) To have perpetual succession.
- 45 (4) To make and execute contracts and other instruments necessary or convenient to the exer-

1 cise of the powers of the authority.

2 (5) To make and from time to time amend and repeal bylaws, rules and regulations, not incon-  
 3 sistent with the Housing Authorities Law, to carry into effect the powers and purposes of the au-  
 4 thority.

5 (6) To arrange or contract for the furnishing by any person or agency, public or private, of  
 6 services, privileges, works or facilities for, or in connection with, a housing project or the occupants  
 7 thereof.

8 (7) Notwithstanding any laws to the contrary, to include in any contract let in connection with  
 9 a project, stipulations requiring that the contractor and any subcontractors comply with require-  
 10 ments as to minimum wages and maximum hours of labor, and comply with any conditions which the  
 11 federal government attaches to its financial aid of the project.

12 (8) To lease or rent any housing, lands, buildings, structures or facilities embraced in any  
 13 housing project and, subject to the limitations of the Housing Authorities Law, to establish and re-  
 14 vise the rents or charges therefor.

15 (9) To own, hold and improve real or personal property.

16 (10) To purchase, buy on contract, exchange, lease, lease back, obtain options upon, acquire by  
 17 gift, grant, bequest, devise or otherwise any real or personal property or any interest therein and  
 18 to give its mortgage or trust deed covering any real property or security agreement covering any  
 19 personal property or any interest in either.

20 (11) To sell, mortgage, lease, rent, exchange, transfer, assign, pledge or otherwise dispose of any  
 21 real or personal property or any interest therein.

22 (12) To insure or provide for the insurance of any real or personal property or operations of the  
 23 authority against any risks or hazards.

24 (13) To procure insurance or guarantees from the federal government of the payment of any  
 25 debts or parts thereof, whether or not incurred by said authority, secured by mortgages on any  
 26 property included in any of its housing projects.

27 (14) To invest any funds held in reserves or sinking funds, or any funds not required for imme-  
 28 diate disbursement, in property or any investment in which an Oregon city may legally invest sur-  
 29 plus funds, and, in addition, to invest bond proceeds and amounts held in bond payment, reserve and  
 30 proceeds accounts in investment agreements that:

31 (a) Produce a guaranteed rate of return;

32 (b) Are fully collateralized by direct obligations of, or obligations guaranteed by, the United  
 33 States; and

34 (c) Require that the collateral be held by the authority, an agent of the authority or a third-  
 35 party safekeeping agent.

36 (15) To purchase its bonds at a price not more than the principal amount thereof and accrued  
 37 interest, all bonds so purchased to be canceled.

38 (16) To exercise all or any part or combination of powers granted in the Housing Authorities  
 39 Law.

40 (17) To borrow money pursuant to ORS 456.055 to 456.235 or as otherwise allowed and accept  
 41 advances, loans or grants or any other form of financial assistance or any combination of these  
 42 forms of assistance from the federal government, state, county or other public body, or from any  
 43 sources, public or private, for the purpose of undertaking and carrying out housing projects.

44 (18) To enter in a partnership agreement with or loan money to an individual, partnership, cor-  
 45 poration or other association to finance, plan, undertake, construct, acquire or operate a housing

1 project.

2 (19) To finance a mixed income housing project that *[will not be owned by the authority and]*  
 3 meets the following requirements:

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

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

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

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

12 **SECTION 7.** ORS 456.153 is amended to read:

13 456.153. A housing authority may finance, **develop, own or operate** a mixed income housing  
 14 project if:

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

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

22 **SECTION 8.** ORS 456.160 is amended to read:

23 456.160. In the operation or management of housing projects, a housing authority shall at all  
 24 times observe the following duties with respect to rentals and tenant selection:

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

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

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

34 (2) *[It]* **A housing authority** may rent or lease the housing at rents no higher than will provide  
 35 revenue sufficient to give financial stability to the housing authority. *[However,]* This limitation  
 36 *[shall]* **does** not apply to housing units that are **owned or managed as described in subsection**  
 37 **(1) of this section if the units are** not occupied by families receiving assistance from an authority  
 38 *[where an authority manages such units pursuant to a lease agreement with the owner thereof in ac-*  
 39 *cordance with subsection (1) of this section].*

40 **SECTION 9.** ORS 456.170 is repealed.  
 41 \_\_\_\_\_