

# House Bill 2436

Sponsored by Representative SCHAUFLEER (at the request of Oregon Housing Alliance, Oregon Association of Realtors, Oregon Bankers Association, Oregon Home Builders Association)

## 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**.

Establishes fee for recording of documents in deed and mortgage records of county. Directs county clerk to transfer amounts collected to Housing and Community Services Department to fund housing programs of department.

Modifies affordable housing programs and requires rulemaking.

Establishes General Housing Account in Oregon Housing Fund.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to public programs for housing; creating new provisions; amending ORS 205.320, 205.323,  
3 294.184, 294.187, 306.815, 458.610, 458.620 and 458.655; prescribing an effective date; and provid-  
4 ing for revenue raising that requires approval by a three-fifths majority.

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

6 **SECTION 1.** ORS 205.320, as amended by section 14, chapter 99, Oregon Laws 2007, is amended  
7 to read:

8 205.320. In every county there shall be charged and collected in advance by the county clerk,  
9 for the benefit of the county, the following fees, and no more, for the following purposes and ser-  
10 vices:

11 (1) For filing and making entry when required by law of any instrument required or permitted  
12 by law to be filed, when it is not recorded, \$5 for each page.

13 (2) For filing and making entry of the assignment or satisfaction of any filed, but not recorded,  
14 instrument, \$5 for each page.

15 (3) For each official certificate, \$3.75.

16 (4)(a) For purposes of this subsection, "page" means one side of a sheet 14 inches, or less, long  
17 and 8-1/2 inches, or less, wide.

18 (b) For recording any instrument required or permitted by law to be recorded, \$5 for each page,  
19 but the minimum fee shall not be less than \$5.

20 (c) For supplying to private parties copies of records or files, not more than \$3.75 for locating  
21 a record requested by the party and 25 cents for each page.

22 (d) For each official certificate, \$3.75.

23 (5) For taking an affidavit for and making and issuing a marriage license and registering the  
24 return of the license, or for taking an affidavit for and registering a Declaration of Domestic Part-  
25 nership, \$25.

26 (6) For solemnizing a marriage under ORS 106.120, \$25. This subsection does not require that  
27 the county clerk charge a fee for solemnizing a marriage after normal working hours or on Satur-  
28 days or legal holidays. This subsection does not prohibit a county clerk from charging and accepting

**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 a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

2 (7) For taking and certifying acknowledgment or proof of execution of any instrument, the fee  
3 established in the schedule adopted by the Secretary of State under ORS 194.164.

4 (8) For issuing any license required by law, other than a marriage or liquor license, and for  
5 which no fee is otherwise provided by law, \$5.

6 (9) For any service the clerk may be required or authorized to perform and for which no fee is  
7 provided by law, such fees as may favorably compare with those established by this section for  
8 similar services and as may be established by order or rule of the county court or board of county  
9 commissioners.

10 (10) For recording any instrument under ORS 205.130 (2), as required by ordinance pursuant to  
11 ORS 203.148.

12 (11) In addition to and not in lieu of the fees charged under subsection (4) of this section, for  
13 each additional municipal assessment lien recorded under ORS 93.643, \$5.

14 (12) In addition to and not in lieu of the fees charged under subsection (4) of this section, for  
15 each additional assignment, release or satisfaction of any recorded instrument, \$5.

16 (13) In addition to and not in lieu of the fees charged under subsection (4) of this section, for  
17 each additional transaction described under ORS 205.236, \$5.

18 (14) In addition to and not in lieu of the fees charged under subsection (4) of this section, for  
19 each additional lien recorded under ORS 311.675, \$5.

20 (15) For preparing and recording the certificate under ORS 517.280, \$20 or such other fee that  
21 is established by the county governing body.

22 (16) In addition to and not in lieu of the fees charged under subsection (4) of this section, for  
23 each additional claim listed on an affidavit of annual compliance under ORS 517.210, \$5.

24 (17) In addition to and not in lieu of the fees charged under subsection (4) of this section, for  
25 each additional name listed on a cooperative contract under ORS 62.360 (2) or for recording the  
26 termination of a cooperative contract under ORS 62.360 (4), \$5.

27 (18) Notwithstanding any other law, five percent of any fee or tax that is not collected for the  
28 benefit of the county clerk shall be deducted from the fee or tax. The moneys deducted shall be  
29 expended for acquiring storage and retrieval systems, payment of expenses incurred in collecting the  
30 fee or tax and maintaining and restoring records as authorized by the county clerk. Moneys col-  
31 lected under this subsection shall be deposited in a county clerk records fund established by the  
32 county governing body. No moneys shall be deducted under this subsection from:

33 (a) Fees collected for the Domestic Violence Fund under ORS 106.045.

34 (b) Fees collected for conciliation services under ORS 107.615.

35 (c) Real estate transfer taxes enacted prior to January 1, 1998.

36 (d) Fees collected under ORS 205.323 for the Oregon Land Information System Fund.

37 **(e) Fees collected under ORS 205.323 (1)(c) for the housing-related programs listed in ORS**  
38 **294.187 (2)(b).**

39 **SECTION 2.** ORS 205.323 is amended to read:

40 205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320  
41 and other fees, **the county clerk shall charge and collect** the following fees [*shall be charged and*  
42 *collected*] for the recording or filing of any instrument described in ORS 205.130:

43 (a) A fee of \$1, to be credited as provided in subsection [(3)(a)] **(4)(a)** of this section; [*and*]

44 (b) A fee of \$10, to be credited as provided in subsection [(3)(b)] **(4)(b)** of this section; **and**

45 **(c) A fee of \$15, to be credited as provided in subsection (4)(c) of this section.**

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

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

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

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

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

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

8 **(b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and**  
9 **657.646; or**

10 **(c) A certified copy of a judgment, a lien record abstract as described in ORS 18.170 or**  
11 **a satisfaction of a judgment, including a judgment noticed by recordation of a lien record**  
12 **abstract.**

13 [(3)] (4) Of the amounts charged and collected under this section:

14 (a) The recording or filing fee charged and collected under subsection (1)(a) of this section  
15 [shall] **must** be deposited and credited to the Oregon Land Information System Fund established  
16 under ORS 306.132[; and].

17 (b) [Of the recording or filing fee charged and collected under subsection (1)(b) of this section,] **The**  
18 **recording or filing fee charged and collected under subsection (1)(b) of this section shall be**  
19 **credited as follows:**

20 **(A)** Five percent [shall] **of the fee must** be credited for the benefit of the county[.];

21 **(B)** Five percent [shall] **of the fee must** be credited for the benefit of the county clerk for the  
22 purposes described in ORS 205.320 (18); and

23 **(C)** 90 percent [shall be deposited and] **of the fee must be** credited to **and deposited in** the  
24 County Assessment and Taxation Fund created under ORS 294.187.

25 **(c) The recording or filing fee charged and collected under subsection (1)(c) of this sec-**  
26 **tion must be credited to and deposited in the County Assessment and Taxation Fund created**  
27 **under ORS 294.187.**

28 **SECTION 3.** ORS 294.184 is amended to read:

29 294.184. (1) There is created under ORS 293.445 a suspense account to be known as the County  
30 Assessment Function Funding Assistance Account. The account shall consist of:

31 (a) All moneys paid over by the county treasurers as provided under ORS 294.187 **(2)(a)**; and

32 (b) All interest earned upon any moneys in the account.

33 (2) Of the moneys in the account as of the last day of each fiscal quarter, the moneys necessary  
34 to pay the following Department of Revenue expenses shall be transferred to a suspense account of  
35 the department created under ORS 293.445 and are continuously appropriated to the department for:

36 (a) Expenses incurred in carrying out the purposes of ORS 294.175 to 294.184; and

37 (b) Appraisal expenses incurred by the department in appraising principal and secondary indus-  
38 trial properties identified under ORS 306.126 and property of centrally assessed companies under  
39 ORS 308.505 to 308.665.

40 (3) The total amount of moneys transferred to the suspense account of the department under  
41 subsection (2) of this section may not exceed 10 percent of the moneys in the account as of the last  
42 day of the fiscal quarter for which the transfer is being made.

43 (4) The remainder of the moneys in the account as of the last day of the fiscal quarter shall be  
44 used for the purpose of making the grant payments to counties as required under ORS 294.178 and  
45 are continuously appropriated to the department for that purpose.

**SECTION 4.** ORS 294.187 is amended to read:

294.187. (1) There is created in the county treasury of each county a fund to be known as the County Assessment and Taxation Fund. The fund shall consist of:

- (a) Moneys deposited **in** and credited to the fund under ORS 311.508.
- (b) Moneys deposited **in** and credited to the fund under ORS 205.323 **(4)(b)(C)**.
- (c) **Moneys deposited in and credited to the fund under ORS 205.323 (4)(c)**.
- ~~[(c)]~~ **(d)** Interest earned upon moneys credited to the fund.

(2) The county treasurer shall pay over the moneys in the fund, determined as of the last day of the fiscal quarter, ~~[to the State Treasurer]~~ on or before the 10th day of the month following the last day of the fiscal quarter~~].~~ **as follows:**

**(a) Moneys collected under subsection (1)(a) and (b) of this section and interest earnings on those moneys must be paid over to the Department of Revenue for deposit in the County Assessment Function Funding Assistance Account created under ORS 294.184.**

**(b) Moneys collected under subsection (1)(c) of this section and interest earnings on those moneys must be paid over to the Housing and Community Services Department for housing-related programs as follows:**

**(A) 76 percent of the moneys must be deposited in the General Housing Account created under ORS 458.620;**

**(B) 10 percent of the moneys must be deposited in the Emergency Housing Account created under ORS 458.620; and**

**(C) 14 percent of the moneys must be deposited in the Home Ownership Assistance Account created under ORS 458.620.**

~~[(3) The State Treasurer shall deposit and credit the moneys received under subsection (2) of this section to the County Assessment Function Funding Assistance Account referred to in ORS 294.184.]~~

~~[(4)]~~ **(3)** If the county treasurer fails to pay over moneys, as required under subsection (2) of this section, then any unpaid moneys shall be a debt due and owing by the county to the state and the county shall pay the legal rate of interest thereon from the due date until paid. Payment of interest under this section shall not relieve the county treasurer from any penalty imposed by law for failure to make the payments, and in addition, the county treasurer shall be liable under ORS 311.375 (4)(a) and (b).

~~[(5)]~~ **(4)** ORS 294.305 to 294.565 do not apply to a fund created under this section.

**SECTION 5.** ORS 306.815 is amended to read:

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

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

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

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

(5) Subsection (1) of this section does not apply to any tax or fee that is imposed upon the transfer of a fee estate in real property if the fee that is imposed under ORS 205.323, for the recording or filing of the instrument conveying the real property being transferred, is less than ~~[\$11]~~

1 **\$27.**

2 **SECTION 6.** ORS 458.610 is amended to read:

3 458.610. For purposes of ORS 458.600 to 458.655:

4 (1) "Council" means the State Housing Council established in ORS 456.567.

5 (2) "Department" means the Housing and Community Services Department established in ORS  
6 456.555.

7 (3) "Low income" means individuals or households that receive more than 50 percent [*but less*]  
8 **and not more** than 80 percent of the [*area median income*] **median family income for the area,**  
9 **subject to adjustment for areas with unusually high or low incomes or housing costs, all** as  
10 determined by the council based on information from the United States Department of Housing and  
11 Urban Development.

12 (4) "**Minority**" means an individual:

13 (a) **Who has origins in one of the black racial groups of Africa but who is not Hispanic;**

14 (b) **Who is of Hispanic culture or origin;**

15 (c) **Who has origins in any of the original peoples of the Far East, Southeast Asia, the**  
16 **Indian subcontinent or the Pacific Islands; or**

17 (d) **Who is an American Indian or Alaskan Native having origins in one of the original**  
18 **peoples of North America.**

19 [(4)] (5) "Organization" means a:

20 (a) Nonprofit corporation established under ORS chapter 65;

21 (b) Housing authority established under ORS 456.055 to 456.235; or

22 (c) Local government as defined in ORS 197.015.

23 [(5)] (6) "Persons with disabilities" means persons with handicaps described in 42 U.S.C. 3602(h).

24 [(6)] (7) "Very low income" means individuals or households [*which receive less than 50 percent*]  
25 [*of the area median income*] **that receive 50 percent or less of the median family income for the**  
26 **area, subject to adjustment for areas with unusually high or low incomes or housing costs,**  
27 **all** as determined by the council based on information from the United States Department of Housing  
28 and Urban Development.

29 **SECTION 7.** ORS 458.655 is amended to read:

30 458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and  
31 Community Services Department to expand the state's supply of homeownership housing for low and  
32 very low income families and individuals, including, but not limited to, housing for persons over 65  
33 years of age, persons with disabilities, **minorities and farmworkers** [*and Native Americans*]. The  
34 State Housing Council shall have a policy of distributing funds statewide while concentrating funds  
35 in those areas of the state with the greatest need, as determined by the council, for low and very  
36 low income homeownership housing. However, the council's policy of distributing funds may differ  
37 from the distribution policy for the Housing Development and Guarantee Account.

38 (2) Funds in the Home Ownership Assistance Account shall be granted to organizations[, *as de-*]  
39 [*defined in ORS 458.610,*] that both sponsor and manage low income homeownership programs, includ-  
40 ing lease-to-own programs, for the construction of new homeownership housing or for the acquisition  
41 or rehabilitation of existing structures for homeownership housing for persons of low or very low  
42 income, or both.

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

45 (a) To aid low income homeownership programs, including program administration, in purchas-

1 ing land, providing assistance with down payment costs, or providing homeownership training and  
 2 qualification services or any combination thereof. [No] **Funds in the Home Ownership Assistance**  
 3 **Account** [*funds shall be*] **may not be** used by an organization **to pay** for its general operations or  
 4 [*for a substantial portion*] **to pay for more than 25 percent** of construction or rehabilitation  
 5 costs[;].

6 (b) To match public and private moneys available from other sources for purposes of the pro-  
 7 vision of low or very low income homeownership housing[; *or*].

8 (c) To administer the Home Ownership Assistance Account, not to exceed five percent of the  
 9 revenue.

10 (4) The council, in developing policy under subsection (3) of this section, shall give preference  
 11 in making grants to those entities that propose to:

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

15 (b) Ensure the longest use for the units as low or very low income homeownership housing units,  
 16 such as by including some form of equity recapture, **land trust or shared equity provisions**, as  
 17 determined by the council; [*and*]

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

22 **(d) Support a comprehensive strategy to reverse the decreasing rates of homeownership**  
 23 **among minorities, giving priority to activities that support adopted comprehensive commu-**  
 24 **nity plans that incorporate recognized best practices or demonstrate proven success in in-**  
 25 **creasing homeownership for minorities.**

26 **SECTION 8.** ORS 458.620 is amended to read:

27 458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury,  
 28 the Oregon Housing Fund, which [*shall consist of four*] **consists of five** separate revolving  
 29 accounts[;]:

30 (a) The Housing Development and Guarantee Account[;];

31 (b) The Emergency Housing Account[;];

32 (c) The Home Ownership Assistance Account [*and*];

33 (d) The Farmworker Housing Development Account; **and**

34 (e) **The General Housing Account.**

35 (2) [*All*] Earnings on investment of moneys in:

36 (a) The Housing Development and Guarantee Account [*shall*] accrue to that account. [*All*  
 37 *earnings on investment of moneys in*]

38 (b) The Emergency Housing Account [*shall*] accrue to that account. [*All earnings on investment*  
 39 *of moneys in*]

40 (c) The Home Ownership Assistance Account [*shall*] accrue to that account. [*All earnings on*  
 41 *investment of moneys in*]

42 (d) The Farmworker Housing Development Account [*shall*] accrue to that account.

43 (e) **The General Housing Account accrue to that account except as provided otherwise in**  
 44 **section 10 of this 2009 Act.**

45 (3)(a) Moneys in the Housing Development and Guarantee Account are appropriated contin-

1 uously to the Housing and Community Services Department to carry out the provisions of ORS  
2 458.625 and 458.630.

3 (b) Moneys in the Emergency Housing Account are appropriated continuously to the [*Housing*  
4 *and Community Services*] department to carry out the provisions of ORS 458.650.

5 (c) Moneys in the Home Ownership Assistance Account are appropriated continuously to the  
6 [*Housing and Community Services*] department to carry out the provisions of ORS 458.655.

7 (d) Moneys in the Farmworker Housing Development Account are appropriated continuously to  
8 the [*Housing and Community Services*] department to carry out the provisions of ORS 458.660.

9 **(e) Moneys in the General Housing Account are appropriated continuously to the de-**  
10 **partment to carry out the provisions of ORS 456.515 to 456.725.**

11 [*(4) Moneys deposited in the Oregon Housing Fund pursuant to subsection (5) of this section shall*  
12 *be credited to the Housing Development and Guarantee Account.*]

13 [(5)] (4) Individuals and corporations, both for profit or nonprofit, may make monetary contri-  
14 butions to **be credited to:**

15 (a) The Housing Development and Guarantee Account; **or**

16 (b) **The General Housing Account.**

17 **SECTION 9. (1) Section 10 of this 2009 Act is added to and made a part of ORS 458.600**  
18 **to 458.655.**

19 **(2) ORS 458.660 is added to and made a part of ORS 458.600 to 458.655.**

20 **SECTION 10. (1) The Housing and Community Services Department shall administer the**  
21 **General Housing Account.**

22 **(2) The department shall disburse moneys credited to the account to accomplish the**  
23 **purposes described in ORS 456.515 to 456.725.**

24 **(3) The department may disburse moneys in the account by contract, grant, loan or**  
25 **otherwise as the department determines necessary.**

26 **(4) The department may set interest rates on loans made with moneys in the account.**

27 **(5) The department shall establish guidelines for the types of loans financed with moneys**  
28 **in the account by rule.**

29 **(6) The department may use moneys in the account to pay allowable administrative ex-**  
30 **penses incurred under ORS 456.515 to 456.725.**

31 **(7) The department may, in the director's discretion, return moneys received for deposit**  
32 **in the account to the original source of the moneys.**

33 **(8) The department may accept moneys for deposit in the account pursuant to ORS**  
34 **458.620 (4) and enter into agreements regarding the use of moneys deposited with the original**  
35 **source of the moneys. The department may accept moneys for deposit in the account subject**  
36 **to a stipulation of the original source under which earnings on the moneys are not credited**  
37 **to the account.**

38 **(9) The department shall adopt rules that:**

39 **(a) Govern the allocation of moneys deposited in the account to best meet critical hous-**  
40 **ing needs and build organizational capacity of partners throughout the state; and**

41 **(b) Require equitable distribution of resources over time based on objective measures of**  
42 **need, including the number and percentage of low and very low income households in an**  
43 **area.**

44 **SECTION 11. This 2009 Act takes effect on the 91st day after the date on which the**  
45 **regular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

