

House Bill 4069

Sponsored by Representative HUFFMAN (Presession filed.)

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**.

Directs State Housing Council to designate exception communities, for purposes of disbursement from accounts in Oregon Housing Fund, where substantial disparity exists between median household income and cost of safe and affordable housing.

Creates tax credit for lending institution making qualified loan directly to qualified borrowers for housing located in exception communities.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to exception communities; creating new provisions; amending ORS 317.097, 458.610, 458.625,
3 458.630, 458.650, 458.655, 458.660 and 458.665; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2012 Act is added to and made a part of ORS 458.600 to**
6 **458.665.**

7 **SECTION 2. The State Housing Council shall:**

8 (1) **Designate exception communities in this state based on a substantial disparity be-**
9 **tween the median household income and the cost of safe and affordable housing in the com-**
10 **munity and other factors as determined by the council by rule;**

11 (2) **Regularly review data from the United States Census Bureau and other appropriate**
12 **sources in making or modifying the designation of exception communities; and**

13 (3) **Adopt rules to implement a process for defining and designating exception communi-**
14 **ties for purposes of ORS 458.600 to 458.665.**

15 **SECTION 3. ORS 458.610 is amended to read:**

16 458.610. For purposes of ORS 458.600 to 458.665:

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

18 (2) "Department" means the Housing and Community Services Department established in ORS
19 456.555.

20 (3) **"Exception community" means a community that has been designated as an exception**
21 **community by the council under section 2 of this 2012 Act.**

22 [(3)] (4) "Low income" means **income of** individuals or households that [*receive more*] **is greater**
23 **than 50 percent [and] but** not more than 80 percent of the median family income for the area, sub-
24 ject to adjustment for areas with unusually high or low incomes or housing costs, [*all*] as determined
25 by the council based on information from the United States [*Department of Housing and Urban De-*
26 *velopment*] **Census Bureau and other appropriate sources.**

27 [(4)] (5) "Minority" means an individual:

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

29 (b) Who is of Hispanic culture or origin;

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

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

5 **(6) “Moderate income” means income of individuals or households that is greater than**
6 **80 percent but not more than 120 percent of the median family income for the area, subject**
7 **to adjustment for areas with unusually high or low incomes or housing costs, as determined**
8 **by the council based on information from the United States Census Bureau and other ap-**
9 **propriate sources.**

10 [(5)] (7) “Organization” means a:

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

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

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

14 [(6)] (8) “Persons with disabilities” means persons with handicaps described in 42 U.S.C. 3602(h).

15 [(7)] (9) “Very low income” means **income of** individuals or households that [receive] is 50 per-
16 cent or less of the median family income for the area, subject to adjustment for areas with unusually
17 high or low incomes or housing costs, [all] as determined by the council based on information from
18 the United States [Department of Housing and Urban Development] **Census Bureau and other ap-**
19 **propriate sources.**

20 **SECTION 4.** ORS 458.625 is amended to read:

21 458.625. (1) The Housing and Community Services Department may use the following to expand
22 this state’s supply of housing for [*low and very low income families and individuals*] **individuals or**
23 **households with low or very low incomes, or with moderate incomes in exception communi-**
24 **ties**, including, but not limited to, housing for persons over 65 years of age, persons with disabilities,
25 farmworkers and Native Americans:

26 (a) The amount of moneys credited to the Housing Development and Guarantee Account that the
27 department determines may be used for the purposes identified in this subsection and that is not
28 used for the purposes set forth in ORS 458.630; and

29 (b) The revenue earned from investment of the principal in the Housing Development and
30 Guarantee Account.

31 (2) The department may use account moneys and account investment revenue for the following
32 purposes:

33 (a) In the form of grants or loans as determined by the department:

34 (A) To assist organizations as defined in ORS 458.610 and for-profit business entities in con-
35 structing new housing or in acquiring or rehabilitating existing structures, or both, for housing for
36 [*persons with low or very low incomes, or both*] **individuals or households with low or very low**
37 **incomes, or with moderate incomes in exception communities.**

38 (B) To provide nonprofit organizations, as set forth in ORS 458.210 to 458.240, with technical
39 assistance or predevelopment costs, or both. Predevelopment costs include, but are not limited to,
40 site acquisition, architectural services and project consultants. Predevelopment costs do not include
41 costs described in subparagraph (C) of this paragraph.

42 (C) To pay for costs to develop nonprofit organizations that show sufficient evidence of having
43 strong community support and a strong likelihood of producing housing for [*persons with low or very*
44 *low incomes*] **individuals or households with low or very low incomes, or with moderate in-**
45 **comes in exception communities.** Account moneys and account investment revenue may not be

1 used by an organization for its general operations.

2 (D) To match public and private moneys available from other sources for production of housing
3 for *[persons with low or very low incomes]* **individuals or households with low or very low in-**
4 **comes, or with moderate incomes in exception communities.**

5 (b) To pay costs and expenses incurred in the administration of the account as provided for in
6 the legislatively approved budget, as that term is defined in ORS 291.002, for the department.

7 (3) The department shall give preference in making grants or loans to those entities that the
8 department determines will:

9 (a) Provide the greatest number of housing units for *[persons with low or very low incomes]* **in-**
10 **dividuals or households with low or very low incomes, or with moderate incomes in exception**
11 **communities**, that are constructed, acquired or rehabilitated for the amount of account moneys and
12 account investment revenue expended by matching account moneys and account investment revenue
13 with other grant, loan or eligible in-kind contributions;

14 (b) Ensure the longest use for the units as housing for *[persons with low or very low incomes]*
15 **individuals or households with low or very low incomes, or with moderate incomes in ex-**
16 **ception communities;** or

17 (c) Include social services to occupants of the proposed housing, including but not limited to,
18 programs that address home health care, mental health care, alcohol and drug treatment and post-
19 treatment care, child care and case management.

20 (4)(a) Account investment revenue derived in any calendar year may be used to construct, ac-
21 quire or rehabilitate housing for *[persons with low or very low incomes]* **individuals or households**
22 **with low or very low incomes, or with moderate incomes in exception communities**, but not
23 more than 25 percent of the account investment revenue may be used to construct, acquire or re-
24 habilitate housing for *[persons with low incomes]* **individuals or households with low incomes, or**
25 **with moderate incomes in exception communities.**

26 (b) Account moneys and account investment revenue not used by the department as grants or
27 loans to construct, acquire or rehabilitate housing for *[persons]* **individuals or households** with low
28 or very low incomes, **or with moderate incomes in exception communities**, may be retained and
29 credited as account principal.

30 (5) The State Housing Council shall have a policy that provides for distribution by the depart-
31 ment of account moneys and account investment revenue statewide while concentrating account
32 moneys and account investment revenue in those areas of this state with the greatest need for
33 housing for *[persons with low or very low incomes, as determined by the council]* **individuals or**
34 **households with low or very low incomes, or with moderate incomes in exception communi-**
35 **ties.**

36 (6) The department may set interest rates on loans made with account moneys and account in-
37 vestment revenue.

38 **SECTION 5.** ORS 458.630 is amended to read:

39 458.630. (1)(a) The Housing and Community Services Department may hold and use the principal
40 that is credited to the Housing Development and Guarantee Account as the Guarantee Fund. The
41 department may use the fund to guarantee repayment of loans made to finance the construction,
42 development, acquisition or rehabilitation of *[low income housing,]* **housing for individuals or**
43 **households with low or very low incomes, or with moderate incomes in exception communi-**
44 **ties, or** of the commercial component of a structure that contains both commercial property and
45 *[low income housing, or of both]* **housing for individuals or households with low or very low in-**

1 **comes, or with moderate incomes in exception communities.** The department, by rule, shall
 2 specify the grounds on which it may deny loan guarantees for a structure that contains both com-
 3 mercial [*and low income housing components*] **property and housing for individuals or households**
 4 **with low or very low incomes, or with moderate incomes in exception communities.** The
 5 grounds for denial specified by the department must include, but need not be limited to, a commer-
 6 cial component that is excessive in scope or that is designed for commercial activity of a type in-
 7 compatible with residential housing. The State Housing Council shall review loans that are
 8 guaranteed by the fund to ensure that the loans meet prudent underwriting standards.

9 (b) A guarantee may not be prepared or construed in such a manner as to violate the provisions
 10 of section 7, Article XI of the Oregon Constitution.

11 (2) The department may not issue any loan guarantee under this section that guarantees the
 12 repayment of more than 50 percent of the original principal balance of any loan.

13 (3) The department may not issue a loan guarantee if the guarantee would cause the aggregate
 14 dollar total of all loan guarantees issued by the department under this section to exceed two times
 15 the total amount then in the Guarantee Fund established under subsection (1) of this section.
 16 Notwithstanding ORS 458.625, whenever payouts on loan guarantees cause the fund principal to
 17 decrease by five percent or more, the interest on the fund shall be deposited only to the principal
 18 account until the amount of the fund principal lost due to payouts on loan guarantees is restored.

19 (4) Subject to council review under subsection (1) of this section, the department shall give
 20 preference for loan guarantees under this section to loans for the construction, development, ac-
 21 quisition or rehabilitation of [*low income*] housing **for individuals or households with low or very**
 22 **low incomes, or with moderate incomes in exception communities,** or of structures containing
 23 both commercial [*and low income housing components,*] **property and housing for individuals or**
 24 **households with low or very low incomes, or with moderate incomes in exception communi-**
 25 **ties. The department may issue loan guarantees under this section** that the department deter-
 26 mines will:

27 (a) Provide **for the construction, development, acquisition or rehabilitation of** the greatest
 28 number of [*low income housing units constructed, acquired, developed or rehabilitated for the amount*
 29 *of guarantee allowed*] **housing units for individuals or households with low or very low incomes,**
 30 **or with moderate incomes in exception communities;**

31 (b) Ensure the longest [*possible*] use for the units as [*low income*] housing units **for individuals**
 32 **or households with low or very low incomes, or with moderate incomes in exception com-**
 33 **munities.** Pursuant to this end, the State Housing Council may adopt a formula that optimizes the
 34 interests of the lender and the developer and the working life of the [*low income*] **housing units;** or

35 (c) Include a program of services for the occupants of the proposed housing **units** including, but
 36 not limited to, programs that address home health care, mental health services, alcohol and drug
 37 treatment and post-treatment care, child care and case management.

38 (5) The council may adopt a policy that gives loan guarantee preference to loans for [*low*
 39 *income*] housing **for individuals or households with low or very low incomes, or with moderate**
 40 **incomes in exception communities,** or structures containing both commercial [*and low income*
 41 *housing components*] **property and housing for individuals or households with low or very low**
 42 **incomes, or with moderate incomes in exception communities,** for which the department has
 43 provided a grant, loan, tax credit or other investment.

44 **SECTION 6.** ORS 458.650 is amended to read:

45 458.650. (1) The Emergency Housing Account shall be administered by the Housing and Com-

1 munity Services Department to assist homeless persons and those persons who are at risk of be-
2 coming homeless. For purposes of this section, “account” means the Emergency Housing Account.

3 (2) The State Housing Council shall develop policy for giving grants to organizations that shall
4 use the funds to provide to [*low and very low income persons*] **individuals or households with low**
5 **or very low incomes, or with moderate incomes in exception communities**, including but not
6 limited to, persons more than 65 years of age, persons with disabilities, farmworkers and Native
7 Americans:

8 (a) Emergency shelters and attendant services;

9 (b) Transitional housing services designed to assist persons to make the transition from
10 homelessness to permanent housing and economic independence;

11 (c) Supportive housing services to enable persons to continue living in their own homes or to
12 provide in-home services for [*such*] persons for whom suitable programs do not exist in their ge-
13 ographic area;

14 (d) Programs that provide emergency payment of home payments, rents or utilities; or

15 (e) Some or all of the needs described in paragraphs (a) to (d) of this subsection.

16 (3)(a) The council shall require as a condition of awarding a grant that the organization dem-
17 onstrate to the satisfaction of the council that the organization has the capacity to deliver any
18 service proposed by the organization.

19 (b) Any funds granted under this section shall not be used to replace existing funds. Funds
20 granted under this section may be used to supplement existing funds. An organization may use funds
21 to support existing programs or to establish new programs.

22 (c) The council, by policy, shall give preference in granting funds to those organizations that
23 coordinate services with those programs established under ORS 458.625.

24 (4) The department may expend funds from the account for administration of the account as
25 provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the
26 department.

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

28 458.655. (1) The Home Ownership Assistance Account shall be administered by the Housing and
29 Community Services Department to expand the state’s supply of homeownership housing for [*low and*
30 *very low income families and individuals*] **individuals or households with low or very low in-**
31 **comes, or with moderate incomes in exception communities**, including, but not limited to,
32 housing for persons over 65 years of age, persons with disabilities, minorities and farmworkers. The
33 State Housing Council shall have a policy of distributing funds statewide while concentrating funds
34 in those areas of the state with the greatest need, as determined by the council, for [*low and very*
35 *low income homeownership housing*] **homeownership housing for individuals or households with**
36 **low or very low incomes, or with moderate incomes in exception communities**. However, the
37 council’s policy of distributing funds may differ from the distribution policy for the Housing Devel-
38 opment and Guarantee Account.

39 (2) Funds in the Home Ownership Assistance Account shall be granted to organizations that
40 both sponsor and manage [*low income*] homeownership programs **for individuals or households**
41 **with low or very low incomes, or with moderate incomes in exception communities**, including
42 lease-to-own programs, for the construction of new homeownership housing or for the acquisition
43 or rehabilitation of existing structures for homeownership housing for [*persons of low or very low*
44 *income, or both*] **individuals or households with low or very low incomes, or with moderate**
45 **incomes in exception communities**.

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

3 (a) To aid [*low income*] homeownership programs **for individuals or households with low or**
 4 **very low incomes, or with moderate incomes in exception communities**, including program
 5 administration, in purchasing land, providing assistance with down payment costs, or providing
 6 homeownership training and qualification services or any combination thereof. Funds in the Home
 7 Ownership Assistance Account may not be used by an organization to pay for its general operations
 8 or to pay for more than 25 percent of construction or rehabilitation costs.

9 (b) To match public and private moneys available from other sources for purposes of the pro-
 10 vision of [*low or very low income*] homeownership housing **for individuals or households with low**
 11 **or very low incomes, or with moderate incomes in exception communities**.

12 (c) To administer the Home Ownership Assistance Account as provided for in the legislatively
 13 approved budget, as that term is defined in ORS 291.002, for the department.

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

16 (a) Provide **for the construction, acquisition or rehabilitation of** the greatest number of [*low*
 17 *and very low income*] homeownership housing units **for individuals or households with low or very**
 18 **low incomes, or with moderate incomes in exception communities**, [*constructed, acquired or*
 19 *rehabilitated*] for the amount of account money expended by matching account funds with other
 20 grant, loan or eligible in-kind contributions;

21 (b) Ensure the longest use for the units as [*low or very low income*] homeownership housing units
 22 **for individuals or households with low or very low incomes, or with moderate incomes in**
 23 **exception communities**, [*such as*] by including [*some form of*] equity recapture, land trust or shared
 24 equity provisions, **or other provisions** as determined by the council;

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

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

33 **SECTION 8.** ORS 458.660 is amended to read:

34 458.660. (1) Except as provided in subsection (2) of this section, the Housing and Community
 35 Services Department shall disburse the moneys credited to the Farmworker Housing Development
 36 Account to expand this state's supply of housing for [*low and very low income*] farmworkers **with**
 37 **low or very low incomes, or with moderate incomes in exception communities**.

38 (2) The department may expend funds from the account for administration of the account as
 39 provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the
 40 department.

41 **SECTION 9.** ORS 458.665 is amended to read:

42 458.665. (1) The Housing and Community Services Department shall administer the General
 43 Housing Account.

44 (2) The department shall disburse moneys credited to the account:

45 (a) To accomplish the purposes described in ORS 456.515 to 456.725; **and**

(b) For the benefit of households with moderate incomes in exception communities.

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

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

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

(6) The department may use moneys in the account to pay allowable administrative expenses incurred [under ORS 456.515 to 456.725] **for the purposes described in subsection (2) of this section.**

(7) The department may, in the [director's] discretion **of the Director of the Housing and Community Services Department,** return moneys received for deposit in the account to the original source of the moneys.

(8) The department may accept moneys for deposit in the account pursuant to ORS 458.620 (4) and enter into agreements regarding the use of moneys deposited with the original source of the moneys.

(9) The department shall adopt rules that:

(a) Govern the allocation of moneys deposited in the account to best meet critical housing needs and build organizational capacity of partners throughout the state; and

(b) Require equitable distribution of resources over time based on objective measures of need, including the number and percentage of [low and very low income households] **individuals and households with low or very low incomes, or with moderate incomes in exception communities,** in an area.

SECTION 10. ORS 317.097 is amended to read:

317.097. (1) As used in this section:

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

(b) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

(c) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(d) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(e) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2010.

(f) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

(g) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

(h) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(i) "Qualified loan" means:

1 (A) A loan that meets the criteria stated in subsection (5) of this section or that is made to re-
2 finance a loan that meets the criteria described in subsection (5) of this section; or

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

6 (j) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental
7 entity, local unit of government as defined in ORS 466.706, housing authority or any other person,
8 provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation,
9 nonprofit cooperative, state governmental entity, local unit of government or housing authority.

10 (2) The Department of Revenue shall allow a credit against taxes otherwise due under this
11 chapter for the taxable year to a lending institution that makes a qualified loan certified by the
12 Housing and Community Services Department as provided in subsection (7) of this section. The
13 amount of the credit is equal to the difference between:

14 (a) The amount of finance charge charged by the lending institution during the taxable year at
15 an annual rate less than the market rate for a qualified loan that is made before January 1, 2020,
16 that complies with the requirements of this section; and

17 (b) The amount of finance charge that would have been charged during the taxable year by the
18 lending institution for the qualified loan for housing construction, development, acquisition or re-
19 habilitation measured at the annual rate charged by the lending institution for nonsubsidized loans
20 made under like terms and conditions at the time the qualified loan for housing construction, de-
21 velopment, acquisition or rehabilitation is made.

22 (3) The maximum amount of credit for the difference between the amounts described in sub-
23 section (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of
24 the qualified loan during the tax year for which the credit is claimed.

25 (4) Any tax credit allowed under this section that is not used by the taxpayer in a particular
26 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding
27 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and
28 used in the second succeeding tax year, and likewise, any credit not used in that second succeeding
29 tax year may be carried forward and used in the third succeeding tax year, and any credit not used
30 in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year,
31 and any credit not used in that fourth succeeding tax year may be carried forward and used in the
32 fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

33 (5) To be eligible for the tax credit allowable under this section, a lending institution must make
34 a qualified loan by either purchasing bonds, as defined in ORS 286A.001, issued on behalf of the
35 Housing and Community Services Department, the proceeds of which are used to finance or refi-
36 nance a loan that meets the criteria stated in this subsection, or by making a loan directly to:

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

40 (b) A qualified borrower who:

41 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
42 of housing; and

43 (B) Provides a written certification executed by the Housing and Community Services Depart-
44 ment that the:

45 (i) Housing created by the loan is or will be occupied by households earning less than 80 percent

1 of the area median income; and

2 (ii) Full amount of savings from the reduced interest rate provided by the lending institution is
 3 or will be passed on to the tenants in the form of reduced housing payments, regardless of other
 4 subsidies provided to the housing project;

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

6 (A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation
 7 of housing consisting of a manufactured dwelling park; and

8 (B) Provides a written certification executed by the Housing and Community Services Depart-
 9 ment that the housing will continue to be operated as a manufactured dwelling park during the pe-
 10 riod for which the tax credit is allowed; [*or*]

11 (d) A qualified borrower who:

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

14 (B) Provides a written certification executed by the Housing and Community Services Depart-
 15 ment that the housing preserved by the loan:

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

18 (ii) Is the subject of a rent assistance contract with the United States Department of Housing
 19 and Urban Development or the United States Department of Agriculture that will be maintained by
 20 the qualified borrower[.]; **or**

21 **(e) A qualified borrower who:**

22 **(A) Uses the loan proceeds to finance construction, development, acquisition or rehabili-**
 23 **tation of housing located in exception communities, as defined in ORS 458.610; and**

24 **(B) Provides a written certification executed by the Housing and Community Services**
 25 **Department that the housing created by the loan:**

26 **(i) Is or will be occupied by households earning not more than 120 percent of the area**
 27 **median income; and**

28 **(ii) Passes through the value of the tax credit savings to the residential tenants to the**
 29 **degree and in the manner required by the Housing and Community Services Department.**

30 (6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this sec-
 31 tion must be treated the same as a loan that meets the criteria stated in subsection (5) of this sec-
 32 tion.

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

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

37 (b) States that the qualified loan is within the limitation imposed by subsection (8) of this sec-
 38 tion.

39 (8) The Housing and Community Services Department may certify qualified loans that are eligi-
 40 ble under subsection (5) of this section if the total credits attributable to all qualified loans eligible
 41 for credits under this section and then outstanding do not exceed \$17 million for any fiscal year. In
 42 making loan certifications under subsection (7) of this section, the Housing and Community Services
 43 Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax
 44 credits in those areas of the state that are determined by the State Housing Council to have the
 45 greatest need for affordable housing.

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

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

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

6 (10) For a qualified loan defined in subsection (1)(i)(B) of this section financed through the pur-
 7 chase of bonds, the interest of which is exempt from federal taxation under section 103 of the
 8 Internal Revenue Code, the amount of finance charge that would have been charged under sub-
 9 subsection (2)(b) of this section is determined by reference to the finance charge that would have been
 10 charged if the federally tax exempt bonds had been issued and the tax credit under this section did
 11 not apply.

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

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

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

25 (14) Notwithstanding subsection (1)(h) and (j) of this section, a qualified borrower on a loan to
 26 finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park
 27 under subsection (5)(c) of this section must be a nonprofit corporation, manufactured dwelling park
 28 nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706
 29 or housing authority.

30 (15) The Housing and Community Services Department and the Department of Revenue may
 31 adopt rules to carry out the provisions of this section.

32 **SECTION 11. Section 2 of this 2012 Act and the amendments to ORS 458.610, 458.625,**
 33 **458.630, 458.650, 458.655, 458.660 and 458.665 by sections 3 to 9 of this 2012 Act apply to actions**
 34 **taken with respect to the Oregon Housing Fund on or after the effective date of this 2012**
 35 **Act.**

36 **SECTION 12. The amendments to ORS 317.097 by section 10 of this 2012 Act apply to**
 37 **loans made on or after the effective date of this 2012 Act.**

38 **SECTION 13. This 2012 Act takes effect on the 91st day after the date on which the 2012**
 39 **session of the Seventy-sixth Legislative Assembly adjourns sine die.**