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# MEMORANDUM

Legislative Fiscal Office  
900 Court St. NE, Room H-178  
Salem, Oregon 97301  
Phone 503-986-1828  
FAX 503-373-7807

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**To:** *Transportation and Economic Development Subcommittee*

**From:** *Michelle Deister, Legislative Fiscal Office*  
(503) 986-1817

**Date:** June 26, 2013

**Subject:** *HB 2639-A*  
Work Session Recommendations

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HB 2639-A relates to Housing. The measure has an effective date of July 1, 2014.

The measure, the original staff measure summary, preliminary Joint Committee on Ways and Means staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing in the Transportation and Economic Development Subcommittee on May 16, 2013.

The measure has a General Fund fiscal impact of \$149,710.

## **Amendment**

There is a -15 amendment to the measure that provides for expenditure limitation necessary to administer the bill and provide for payments from the Landlord Guarantee program. The amendment also removes those portions of the bill relating to the Stable Rental Housing Fund and Program, as funding is unavailable for those programs.

**Motion: Move the -15 amendment to HB 2639.**

## **Measure as Modified**

The measure, as amended, is recommended to be moved to the full Committee on Joint Ways and Means.

**Motion: Move HB 2639 to the full committee with a “do pass” recommendation, as amended.**

## **Assignment of Carriers**

Full: \_\_\_\_\_  
2nd Chamber: \_\_\_\_\_

**FISCAL IMPACT OF PROPOSED LEGISLATION****Measure: HB 2639 - A15**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office*Only Impacts on Original or Engrossed  
Versions are Considered Official*Prepared by: Matt Stayner  
Reviewed by: Michelle Deister  
Date: 6/24/13**Measure Description:**

Redefines "source of income" for purposes of prohibiting discrimination in selling, renting or leasing real property; Establishes the Housing Choice Landlord Guarantee Program and provides General Fund appropriation for the program; Establishes the Statewide Housing Choice Advisory Committee.

**Government Unit(s) Affected:**

Housing and Community Services Department, Local Housing Authorities

**Summary of Expenditure Impact:**

	<b>2013-15 Biennium</b>	<b>2015-17 Biennium</b>
General Fund	\$149,710 <sup>1</sup>	\$299,420
<b>Total Funds</b>	<b>\$149,710<sup>1</sup></b>	<b>\$299,420</b>
Positions	0 <sup>1</sup>	0
FTE	0.00 <sup>1</sup>	0.00

**Local Government Mandate:**

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**Analysis:**

The measure redefines "source of income" to include federal rent subsidy payments and any other local, state, or federal housing assistance. It extends the right for a landlord not to rent on the basis of past rental conduct and/or the inability of the applicant to pay rent even after including all public assistance available to the potential renter/lessee. The measure establishes the Housing Choice Landlord Guarantee Program (HCLGP) to mitigate the losses due damages to dwelling units of landlords caused by tenants receiving tenant-based assistance under the federal Housing Choice Voucher Program (HCVP); establishes a fund for the program, and continuously appropriates monies in the fund to the Housing and Community Services Department for the purpose of the program. The bill requires local housing authorities to report to HCSD the information they are required to report to the federal Housing and Urban Development (HUD) agency regarding the HCVP. The measure also establishes the Statewide Housing Choice Advisory Committee requiring certain advising responsibilities related to the Housing Choice Voucher Program and regular reporting to the Legislative Assembly.

The fiscal impact of the measure is primarily associated with the Housing Choice Landlord Guarantee Program (HCLGP). The program operates as a revolving loan fund, paying the damages awarded to a landlord in a court action on behalf of a tenant due to damage occurring as a result of occupancy of a unit funded in part by the federal Housing Choice Voucher Program (HCVP); requiring the defaulting

tenant to repay or enter in to an agreement to repay HCSD the amounts forwarded to the landlord. The measure provides that damages must be over \$500, but limit reimbursement to no more than \$5,000 under the program.

HUD authorizes 33,627 housing choice vouchers in Oregon. HCSD estimates that of this population, 15% move each year (1 move in 6.67 years), thus creating an annual pool of possible claims of 5,044 units. Based on information provided to HCSD from a similar program and the agency's experience with an internal rental guarantee program, HCSD estimates that one percent of these moves will result in a claim against the fund. Using an assumed average claim of \$2,000, HCSD estimates the total annual claims payment to be 100,000. Administrative costs of the program are specifically allowed by the measure to be paid from the fund established for the program. Administrative costs of the program are estimated to be \$47,660 annually.

The measure requires HCSD to provide a number of notifications to tenants subject to repayment requirements under the program. Tenants may seek waivers of repayment requirements and also contest HCSD determination of non-payment or non-conformance with payment agreements. HCSD is allowed under the measure to pursue collection action for non-payment. The Office of Administrative Hearings estimates that up to 10 hearings a year would be conducted at an annual cost of \$2,053. The actual repayment rate of claims paid to landlords on behalf of tenants is unknown. The payment of administrative costs, the granting of waivers, and making an allowance for the default of payment agreements are factors that may influence the sustainability of the fund.

The Housing and Community Services Department currently operates a rent guarantee program that has a projected fund balance of \$475,000 Other Funds; when the current contracts for which these funds are committed expire, the agency plans to utilize these funds to provide a capital reserve in addition to the General Fund appropriation included in the measure, to be used in the event that payments to landlords or administrative costs exceed the amount of General Fund appropriated for those purposes.

Joint Committee on Ways and Means

Carrier – House: Rep.  
Carrier – Senate: Sen.

Revenue: No Revenue Impact

Fiscal: No Statement Yet Issued

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Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Michelle Deister, Legislative Fiscal Office

Meeting Date: [Full Committee Meeting Date]

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**WHAT THE MEASURE DOES:** Directs Housing and Community Services Department (HCS) to develop Housing Choice Landlord Guarantee Program. Establishes Housing Choice Landlord Guarantee Program and guidelines. Creates Housing Choice Landlord Guarantee Program Fund. Requires local housing authorities to report annually to Housing and Community Services Department information provided to Secretary of Housing and Urban Development regarding local housing authority's participation in Housing Choice Voucher Program. Requires local housing authorities annually review internal procedures and processes to coordinate length of rental lease terms with market standards. Increases landowner rent recovery assistance related to property damage, unpaid rent or other damages to \$5,000. Modifies definition of "source of income". Clarifies criteria for real property rental refusal of lessee. Creates Statewide Housing Choice Advisory Committee to discuss and develop report regarding participation in and effectiveness of Housing Choice Voucher program. Requires HCS to create and administer Stable Rental Housing Program. Requires HCS, in consult with State Housing Council, to adopt rules for eligibility determination for receipt of grant funds. Creates Stable Rental Housing Account and appropriates account funds to HCS. Directs HCSD to report Stable Rental Housing Program status and outcomes to legislature. Appropriates an as yet undetermined amount from the General Fund to carry out the provisions of the bill.

**ISSUES DISCUSSED (May 16, 2013 Public Hearing):**

- Utilization of existing undersubscribed landlord guarantee fund in the Housing and Community Services Department;
- The cap on payments per tenant that could be made from the Landlord Guarantee Program fund;
- Availability of funding for the proposed Stable Rental Housing Account.

**EFFECT OF COMMITTEE AMENDMENT:** -15 amendment requires Housing and Community Services Department to offer a repayment plan to tenants who cause a payment to be made from the Landlord Guarantee Program Fund; allows the repayment to be waived if the tenant shows good cause; allows for tenants to contest Department's findings regarding repayment compliance; allows for collection provisions by the Department; and requires the Department to provide housing authorities and landlords with tenant compliance of repayment provisions. The amendment removes provisions that bar housing authorities participating in the Housing Choice Voucher Program from renting to tenants who fail to repay amounts owed to the Landlord Guarantee Program Fund;eEliminates language related to the Stable Rental Housing Program.

**BACKGROUND:**

Commonly referred to as "Section 8" housing, the Housing Choice Voucher Program (HCVP), a federally funded program, assists approximately 32, 000 households, annually, in Oregon. The HCVP allows very low-income families, seniors, and individuals with disabilities to afford safe housing in the private market. Participants may locate housing including single-family homes, townhouses, and apartments. The Oregon Housing and Community Services

Department serves as Oregon's Performance Based Contract Administrator (PBCA). Units rented through the program must adhere to certain health and safety standards. A housing subsidy is paid to the landlord by OHCS on behalf of the lessee. The lessee is responsible for the difference between the actual rent charged by the landlord and the subsidized amount. House Bill 2639 A restructures the Housing Choice Voucher Program.

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2639**

1 On page 1 of the printed A-engrossed bill, line 2, delete “456.561” and in-  
2 sert “659A.139”.

3 On page 4, delete lines 34 through 45.

4 On page 5, delete lines 1 through 16 and insert:

5 **“SECTION 4. (1) When a landlord is determined to be eligible to**  
6 **receive assistance under section 3 of this 2013 Act, the Housing and**  
7 **Community Services Department shall require the responsible tenant**  
8 **to repay the full or a partial amount of any assistance paid to the**  
9 **landlord and shall offer the responsible tenant a reasonable repayment**  
10 **agreement that provides for repayment by the tenant to the depart-**  
11 **ment of the full or a partial amount of the assistance paid to the**  
12 **landlord. Amounts repaid by tenants under this section must be de-**  
13 **posited into the Housing Choice Landlord Guarantee Program Fund**  
14 **created in section 5 of this 2013 Act.**

15 **“(2) After the department pays a claim for assistance to a landlord**  
16 **under section 3 of this 2013 Act, the department shall serve a notice**  
17 **upon the responsible tenant stating the following:**

18 **“(a) The tenant must repay to the department the amount of any**  
19 **assistance paid to a landlord on the tenant’s behalf pursuant to section**  
20 **3 of this 2013 Act;**

21 **“(b) The tenant may enter into a reasonable repayment agreement**  
22 **with the department to repay the full or a partial amount of any as-**

1 **sistance paid to a landlord on the tenant’s behalf pursuant to section**  
2 **3 of this 2013 Act;**

3 **“(c) If the tenant does not enter into a repayment agreement or**  
4 **make good faith efforts to comply with the terms of a repayment**  
5 **agreement that the tenant has entered into, or otherwise fails to repay**  
6 **the full or a partial amount of assistance paid to the landlord on the**  
7 **tenant’s behalf pursuant to section 3 of this 2013 Act, the department**  
8 **may seek to collect any amount remaining unpaid by the tenant;**

9 **“(d) The department shall make available upon request by local**  
10 **housing authorities and landlords information regarding a tenant’s**  
11 **compliance with the provisions of this section, including records of**  
12 **repayments made by the tenant, where applicable; and**

13 **“(e) The tenant may seek a waiver of repayment requirements un-**  
14 **der this section for good cause shown and may contest the**  
15 **department’s determination that the tenant has an obligation to repay**  
16 **any amounts of assistance paid to a landlord on the tenant’s behalf,**  
17 **in accordance with ORS chapter 183.**

18 **“(3) The department shall, in accordance with ORS chapter 183,**  
19 **provide an opportunity for the tenant to contest the department’s de-**  
20 **termination that the tenant has failed to repay amounts due under a**  
21 **repayment agreement, that the tenant has not made or is not making**  
22 **a good faith effort to comply with the repayment agreement or that**  
23 **the tenant has not paid to the department the full or a partial amount**  
24 **of the assistance paid to a landlord on the tenant’s behalf pursuant**  
25 **to section 3 of this 2013 Act. The department shall serve a notice of**  
26 **noncompliance upon the tenant in accordance with ORS 183.415 that**  
27 **states the amount remaining unpaid by the tenant.**

28 **“(4) The department may pursue any rights, remedies or processes**  
29 **provided by law for the collection of unpaid amounts due from a ten-**  
30 **ant for assistance paid to a landlord on the tenant’s behalf pursuant**

1 to section 3 of this 2013 Act.

2 “(5) The department shall waive the requirements of this section for  
3 good cause as set forth in rules adopted by the department.

4 “(6) The department shall make available upon request by, and in  
5 a timely manner to, local housing authorities and landlords informa-  
6 tion regarding a tenant’s compliance with the provisions of this sec-  
7 tion, including records of repayments made by the tenant, where  
8 applicable.

9 “(7) The department shall adopt rules to implement the provisions  
10 of this section, including but not limited to the contents of the notice  
11 required under subsection (2) of this section and the procedure for  
12 providing information to local housing authorities and landlords re-  
13 garding a tenant’s record of repayment as required under subsection  
14 (6) of this section.”.

15 After line 23, insert:

16 “(c) Amounts repaid by tenants under section 4 of this 2013 Act;”.

17 In line 24, delete “(c)” and insert “(d)”.

18 In line 25, delete “(d)” and insert “(e)”.

19 On page 6, line 9, delete “and” and insert “or”.

20 In line 10, delete the second “and” and insert “or”.

21 In line 11, delete “and” and insert “or”.

22 Delete lines 23 through 45 and delete page 7.

23 On page 8, delete lines 1 through 3.

24 In line 4, delete “11” and insert “7”.

25 In line 11, delete “12” and insert “8” and delete “8 and 11” and insert  
26 “7”.

27 In line 13, delete “13” and insert “9”.

28 In line 15, delete “\$\_\_\_\_\_” insert “\$74,855”.

29 Delete lines 17 through 22 and insert:

30 **“SECTION 10. (1) In addition to and not in lieu of any other ap-**



1 **ropriation, there is appropriated to the Emergency Board, for the**  
2 **biennium beginning July 1, 2013, out of the General Fund, the amount**  
3 **of \$74,855, to be allocated to the Housing and Community Services**  
4 **Department for the purposes of implementing the Housing Choice**  
5 **Landlord Guarantee Program and carrying out the provisions of**  
6 **sections 2 to 6 of this 2013 Act.**

7 **“(2) If any of the moneys appropriated by subsection (1) of this**  
8 **section are not allocated by the Emergency Board prior to December**  
9 **1, 2014, the moneys remaining on that date become available for any**  
10 **purpose for which the Emergency Board lawfully may allocate funds.**

11 **“SECTION 11. Sections 2 to 6 of this 2013 Act and the amendments**  
12 **to ORS 659A.421 by section 1 of this 2013 Act become operative on July**  
13 **1, 2014.**

14 **“SECTION 12. ORS 659A.139 is amended to read:**

15 **“659A.139. (1) ORS 659A.103 to [659A.145] ~~659A.144~~ shall be construed to**  
16 **the extent possible in a manner that is consistent with any similar provisions**  
17 **of the federal Americans with Disabilities Act of 1990, as amended by the**  
18 **federal ADA Amendments Act of 2008 and as otherwise amended.**

19 **“(2) The determination of whether an individual has a disability as pro-**  
20 **vided in ORS 659A.104 (1) shall be construed in favor of broad coverage of**  
21 **individuals under ORS 659A.103 to 659A.145, to the maximum extent permit-**  
22 **ted by the terms of ORS 659A.103 to 659A.145.”.**

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