

# House Bill 2639

Sponsored by Representative KOTEK (Pre-session 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**.

Redefines "source of income" for purposes of prohibiting discrimination in selling, renting or leasing real property. Creates exceptions.

Directs Housing and Community Services Department to develop Housing Choice Landlord Guarantee Program to mitigate damages to dwelling units of landlords caused by tenants receiving tenant-based assistance under federal Housing Choice Voucher Program.

Creates Housing Choice Landlord Guarantee Program Fund and continuously appropriates moneys in fund to department to carry out Housing Choice Landlord Guarantee Program.

Directs department to establish and administer Stable Rental Housing Program to make grants to qualifying organizations to provide rental and financial assistance to persons at risk of experiencing homelessness or persons requiring assistance to maintain housing stability.

Creates Stable Rental Housing Account and continuously appropriates moneys in account to department to carry out Stable Rental Housing Program.

Directs department and State Housing Council to cooperate with local housing authorities to obtain federal approval and waivers of requirements under certain federal rent subsidy assistance programs.

Becomes operative July 1, 2014.

## A BILL FOR AN ACT

1  
2 Relating to housing; creating new provisions; amending ORS 456.561 and 659A.421; and appropriating  
3 money.

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

5 **SECTION 1.** ORS 659A.421 is amended to read:

6 659A.421. (1) As used in this section:

7 (a) "Dwelling" means:

8 (A) A building or structure, or portion of a building or structure, that is occupied, or designed  
9 or intended for occupancy, as a residence by one or more families; or

10 (B) Vacant land offered for sale or lease for the construction or location of a building or  
11 structure, or portion of a building or structure, that is occupied, or designed or intended for occu-  
12 pancy, as a residence by one or more families.

13 (b) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee,  
14 prospective lessee, buyer or prospective buyer.

15 (c) "Real property" includes a dwelling.

16 (d)(A) "Source of income" [*does not include*] **includes** federal rent subsidy payments under 42  
17 U.S.C. 1437f[,] **and any other local, state or federal housing assistance.**

18 **(B) "Source of income" does not include** income derived from a specific occupation or income  
19 derived in an illegal manner.

20 (2) A person may not, because of the race, color, religion, sex, sexual orientation, national ori-  
21 gin, marital status, familial status or source of income of any person:

22 (a) Refuse to sell, lease or rent any real property to a purchaser, **except that a person may**  
23 **refuse to lease or rent real property to a prospective renter or prospective lessee:**

**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) Based upon the past conduct of a prospective renter or prospective lessee as a former**  
2 **renter or former lessee that would make the prospective renter or prospective lessee an**  
3 **unsuitable renter or lessee; or**

4       **(B) When the amount of rent exceeds the income of the prospective renter or prospective**  
5 **lessee, taking into account the value of any local, state or federal housing assistance for**  
6 **which the prospective renter or prospective lessee is eligible.**

7       (b) Expel a purchaser from any real property.

8       (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms,  
9 conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the  
10 furnishing of any facilities or services in connection therewith.

11       (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

12       (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,  
13 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing  
14 of real property that indicates any preference, limitation, specification or unlawful discrimination  
15 based on race, color, religion, sex, sexual orientation, national origin, marital status, familial status  
16 or source of income.

17       (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that  
18 violates this section.

19       (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of,  
20 or on account of the person having exercised or enjoyed or having aided or encouraged any other  
21 person in the exercise or enjoyment of, any right granted or protected by this section.

22       (h) Deny access to, or membership or participation in, any multiple listing service, real estate  
23 brokers' organization or other service, organization or facility relating to the business of selling or  
24 renting dwellings, or discriminate against any person in the terms or conditions of the access,  
25 membership or participation.

26       (i) Represent to a person that a dwelling is not available for inspection, sale or rental when the  
27 dwelling in fact is available for inspection, sale or rental.

28       (j) Otherwise make unavailable or deny a dwelling to a person.

29       (3)(a) A person whose business includes engaging in residential real estate related transactions  
30 may not discriminate against any person in making a transaction available, or in the terms or con-  
31 ditions of the transaction, because of race, color, religion, sex, sexual orientation, national origin,  
32 marital status, familial status or source of income.

33       (b) As used in this subsection, "residential real estate related transaction" means any of the  
34 following:

35       (A) The making or purchasing of loans or providing other financial assistance:

36       (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

37       (ii) Secured by residential real estate; or

38       (B) The selling, brokering or appraising of residential real property.

39       (4) A real estate licensee may not accept or retain a listing of real property for sale, lease or  
40 rental with an understanding that a purchaser may be discriminated against with respect to the sale,  
41 rental or lease thereof because of race, color, religion, sex, sexual orientation, national origin,  
42 marital status, familial status or source of income.

43       (5) A person may not, for profit, induce or attempt to induce any other person to sell or rent  
44 any dwelling by representations regarding the entry or prospective entry into the neighborhood of  
45 a person or persons of a particular race, color, religion, sex, sexual orientation, national origin,

1 marital status, familial status or source of income.

2 (6) This section does not apply with respect to sex distinction, discrimination or restriction if  
 3 the real property involved is such that the application of this section would necessarily result in  
 4 common use of bath or bedroom facilities by unrelated persons of opposite sex.

5 (7)(a) This section does not apply to familial status distinction, discrimination or restriction with  
 6 respect to housing for older persons.

7 (b) As used in this subsection, "housing for older persons" means housing:

8 (A) Provided under any state or federal program that is specifically designed and operated to  
 9 assist elderly persons, as defined by the state or federal program;

10 (B) Intended for, and solely occupied by, persons 62 years of age or older; or

11 (C) Intended and operated for occupancy by at least one person 55 years of age or older per  
 12 unit. Housing qualifies as housing for older persons under this subparagraph if:

13 (i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or  
 14 older per unit; and

15 (ii) Policies and procedures that demonstrate an intent by the owner or manager to provide  
 16 housing for persons 55 years of age or older are published and adhered to.

17 (c) Housing does not fail to meet the requirements for housing for older persons if:

18 (A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of  
 19 paragraph (b)(B) or (C) of this subsection. However, new occupants of the housing shall meet the  
 20 age requirements of paragraph (b)(B) or (C) of this subsection; or

21 (B) The housing includes unoccupied units that are reserved for occupancy by persons who meet  
 22 the age requirements of paragraph (b)(B) or (C) of this subsection.

23 (d) Nothing in this section limits the applicability of any reasonable local, state or federal re-  
 24 strictions regarding the maximum number of occupants permitted to occupy a dwelling.

25 (8) The provisions of subsection (2)(a) to (d) and (f) of this section that prohibit actions based  
 26 upon sex, sexual orientation or familial status do not apply to the renting of space within a single-  
 27 family residence if the owner actually maintains and occupies the residence as the owner's primary  
 28 residence and all occupants share some common space within the residence.

29 (9) Any violation of this section is an unlawful practice.

30 **SECTION 2. As used in sections 2 to 6 of this 2013 Act:**

31 (1) **"Housing Choice Voucher Program" means the federal tenant-based assistance pro-**  
 32 **gram established under 42 U.S.C. 1437f(o).**

33 (2) **"Landlord" means an owner of a dwelling unit that has entered into an agreement**  
 34 **with a local housing authority to receive tenant-based assistance payments under the Hous-**  
 35 **ing Choice Voucher Program and that has entered into a rental or lease agreement with a**  
 36 **tenant determined to be eligible to receive assistance under the Housing Choice Voucher**  
 37 **Program.**

38 (3) **"Local housing authority" means a housing authority as defined in ORS 456.005 that**  
 39 **has entered into a contract with the Secretary of Housing and Urban Development of the**  
 40 **United States pursuant to which the housing authority is authorized to make tenant-based**  
 41 **assistance payments to landlords within a designated county or area of operation under the**  
 42 **Housing Choice Voucher Program.**

43 (4) **"Tenant" means an individual or a family who is determined to be eligible to receive**  
 44 **tenant-based assistance payments under the Housing Choice Voucher Program and who has**  
 45 **entered into a rental or lease agreement with a landlord.**

1       **SECTION 3.** (1) The Housing and Community Services Department shall develop and im-  
 2       plement the Housing Choice Landlord Guarantee Program for the purpose of providing fi-  
 3       nancial assistance to landlords to mitigate damages caused by tenants as a result of  
 4       occupancy under the Housing Choice Voucher Program.

5       (2) Landlords that are eligible for assistance under the Housing Choice Landlord Guar-  
 6       antee Program must obtain a judgment against the tenant in the small claims department  
 7       of a circuit court for the county in which the property is located. Assistance is limited to  
 8       reimbursement for only those amounts in the judgment that are related to damages:

9       (a) Caused as a result of the tenant's occupancy under the Housing Choice Voucher  
 10      Program;

11      (b) That exceed normal wear and tear; and

12      (c) That are in excess of \$500 but not more than twice the monthly rent.

13      (3) The department may contract with a public or private provider for the administration  
 14      of the Housing Choice Landlord Guarantee Program. The department is not subject to the  
 15      provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of this  
 16      subsection. The department shall establish by rule procedures for inviting proposals and  
 17      awarding contracts under this subsection.

18      (4) The department shall adopt rules to implement the provisions of this section, includ-  
 19      ing but not limited to prescribing additional qualifications and requirements that must be  
 20      met by landlords and the form of application that must be submitted to the department to  
 21      receive assistance under the program.

22      **SECTION 4.** (1) When a landlord is determined to be eligible to receive assistance under  
 23      sections 2 to 6 of this 2013 Act, the Housing and Community Services Department shall enter  
 24      into a repayment agreement with the responsible tenant that provides for repayment by the  
 25      tenant to the department of the full amount of the assistance paid to the landlord.

26      (2)(a) Consistent with the requirements of federal law, all local housing authorities that  
 27      participate in the Housing Choice Voucher Program shall, upon written notice from the de-  
 28      partment that a tenant has failed to repay the full amount required under subsection (1) of  
 29      this section, be prohibited from approving a dwelling unit for the responsible tenant, and  
 30      may not enter into a contract with a landlord that provides for occupancy of the landlord's  
 31      dwelling unit by that tenant at any future time, regardless of the area of operation of the  
 32      local housing authority wherein the dwelling unit that sustained the damages was located.

33      (b) Notwithstanding paragraph (a) of this subsection, this subsection does not apply when  
 34      the tenant has made or is making a good faith effort to comply with the repayment agree-  
 35      ment.

36      (3) The department shall, in accordance with ORS chapter 183, provide an opportunity for  
 37      the tenant to contest the department's determination that the tenant has failed to repay  
 38      amounts due under a repayment agreement or that the tenant has not made or is not mak-  
 39      ing a good faith effort to comply with the repayment agreement. The department shall serve  
 40      a notice of noncompliance upon the tenant in accordance with ORS 183.415 that states:

41      (a) The amount remaining unpaid by the tenant under the repayment agreement; and

42      (b) That the department may prohibit all local housing authorities, regardless of the area  
 43      of operation of the local housing authority wherein the dwelling unit that sustained the  
 44      damages was located, from approving a dwelling unit for the tenant in the future and from  
 45      entering into a contract with a landlord that provides for the tenant's occupancy of the

1 landlord's dwelling unit by that tenant at any future time.

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

4 **SECTION 5.** (1) There is created within the State Treasury, separate and distinct from  
5 the General Fund, the Housing Choice Landlord Guarantee Program Fund. Interest earned  
6 by the Housing Choice Landlord Guarantee Program Fund shall be credited to the fund.

7 (2) Moneys in the Housing Choice Landlord Guarantee Program Fund shall consist of:

8 (a) Amounts donated to the fund;

9 (b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-  
10 sembly;

11 (c) Investment earnings received on moneys in the fund; and

12 (d) Other amounts deposited in the fund from any source.

13 (3) Moneys in the fund are continuously appropriated to the Housing and Community  
14 Services Department to carry out the provisions of sections 2 to 6 of this 2013 Act.

15 (4) The department may use moneys in the fund to pay the administrative costs associ-  
16 ated with the fund and with processing applications, making payments to landlords and ad-  
17 ministering repayment agreements under sections 2 to 6 of this 2013 Act.

18 **SECTION 6.** (1) Local housing authorities shall report annually to the Housing and  
19 Community Services Department regarding information required to be provided to the Sec-  
20 retary of Housing and Urban Development regarding each local housing authority's partic-  
21 ipation in the Housing Choice Voucher Program and any additional information, data or  
22 outcomes prescribed by the department by rule.

23 (2) Local housing authorities shall annually review internal procedures and processes,  
24 particularly with respect to the length of initial rental and lease terms so as to coordinate  
25 the length of the terms with market standards, for the purpose of achieving the maximum  
26 use and benefit in the best interests of tenants and landlords from tenant-based assistance  
27 payments under the Housing Choice Voucher Program.

28 (3) The department shall prepare and submit a report to the committees of the Legisla-  
29 tive Assembly that have authority over the subject area of housing on the date of the con-  
30 vening of each regular session of the Legislative Assembly regarding the reports submitted  
31 to the department by local housing authorities under subsection (1) of this section and how  
32 the department has integrated information from these reports into the comprehensive state  
33 plan required under ORS 456.572.

34 **SECTION 7.** (1) The Housing and Community Services Department shall establish and  
35 administer the Stable Rental Housing Program to provide rental assistance to persons re-  
36 quiring assistance to achieve or maintain housing stability.

37 (2) Subject to the approval of the State Housing Council, the department shall make  
38 grants from the Stable Rental Housing Account created in section 8 of this 2013 Act to or-  
39 ganizations as defined in ORS 458.610 for purposes of providing:

40 (a) Rental assistance to persons of low income and very low income, as those terms are  
41 defined in ORS 458.610, who are also identified as being at risk of experiencing homelessness  
42 or who require rental assistance to maintain housing stability.

43 (b) Financial assistance with expenses found to support housing stability, including but  
44 not limited to application fees, security deposits, move-in expenses, past-due rent, utility  
45 payments, transportation expenses, essential furnishings and any other expenses as pre-

1 scribed by the department by rule.

2 (c) Support services to assist persons of low income and very low income who are at risk  
 3 of experiencing homelessness or who require rental assistance to maintain housing stability,  
 4 and the administrative costs of providing the services, to access housing for the purpose of  
 5 achieving or maintaining housing stability.

6 (3) The department shall, in consultation with and subject to the approval of the State  
 7 Housing Council, adopt rules for determining the eligibility of organizations to receive grants  
 8 under this section that must, at a minimum, include the requirement that the organization  
 9 demonstrate it has the capacity to deliver the assistance and services proposed by the or-  
 10 ganization and to measure and report on outcomes related to homelessness and housing  
 11 stability.

12 (4) The department may contract with a public or private provider for the administration  
 13 of the Stable Rental Housing Program under this section. The department is not subject to  
 14 the provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of  
 15 this subsection. The department shall establish by rule procedures for inviting proposals and  
 16 awarding contracts under this subsection.

17 (5) The department shall adopt rules to implement the provisions of this section.

18 **SECTION 8.** (1) There is created within the State Treasury, separate and distinct from  
 19 the General Fund, the Stable Rental Housing Account. Interest earned by the Stable Rental  
 20 Housing Account shall be credited to the account.

21 (2) Moneys in the Stable Rental Housing Account shall consist of:

22 (a) Amounts donated to the account;

23 (b) Amounts appropriated or otherwise transferred to the account by the Legislative  
 24 Assembly;

25 (c) Investment earnings received on moneys in the account; and

26 (d) Other amounts deposited in the account from any source.

27 (3) Moneys in the account are continuously appropriated to the Housing and Community  
 28 Services Department to develop and implement the Stable Rental Housing Program under  
 29 section 7 of this 2013 Act.

30 (4) The department may use moneys in the account to pay the administrative costs as-  
 31 sociated with the account and with making grants under section 7 of this 2013 Act.

32 **SECTION 9.** The Housing and Community Services Department shall prepare and submit  
 33 a report, after review and approval by the State Housing Council, regarding the status and  
 34 outcomes of the Stable Rental Housing Program established under section 7 of this 2013 Act  
 35 to the committees of the Legislative Assembly that have authority over the subject area of  
 36 housing on the date of the convening of the 2015 regular session of the Legislative Assembly.

37 **SECTION 10.** ORS 456.561 is amended to read:

38 456.561. (1) The Housing and Community Services Department may effect loans, grants and other  
 39 funding awards to accomplish department housing programs, subject to any requirement under this  
 40 section for review and approval by the State Housing Council of proposals for loans, grants or other  
 41 funding awards.

42 (2) The department shall submit a loan, grant or other funding award proposal arising under  
 43 ORS 456.515 to 456.725 [programs] and section 7 of this 2013 Act to the council for review if the  
 44 proposal is for:

45 (a) A housing loan on property that has a purchase price in excess of an applicable threshold

1 property purchase price established by rule under ORS 456.555 (9); [or]

2 (b) A housing grant or other housing funding award in excess of an applicable threshold amount  
 3 established by rule under ORS 456.555 (10); or

4 (c) **A grant made pursuant to the Stable Rental Housing Program established under  
 5 section 7 of this 2013 Act.**

6 (3) The council shall review each loan, grant or other funding award proposal submitted by the  
 7 department under this section and approve or disapprove the loan, grant or other funding award  
 8 proposal.

9 (4) Council review of loan, grant or other funding award proposals under this section shall be  
 10 held at a public hearing of the council. The council meeting notice required by ORS 192.640 shall  
 11 include notice of the loan, grant or other funding award proposal review, the names of the appli-  
 12 cants and the subject of the loan, grant or funding award proposal. The council shall provide notice  
 13 of a loan, grant or other funding award proposal review to the loan, grant or other funding award  
 14 applicant not less than five days before the review hearing.

15 **SECTION 11. The Housing and Community Services Department and State Housing  
 16 Council shall cooperate with and assist local housing authorities as defined in section 2 of  
 17 this 2013 Act to obtain federal approval, renewal of an existing waiver of federal require-  
 18 ments or a new waiver of federal requirements, as necessary to make the use and distrib-  
 19 ution of federal rent subsidy and assistance payments under 42 U.S.C. 1437f as efficient and  
 20 beneficial as possible to increase the supply of decent, safe, sanitary and affordable housing  
 21 for persons of low income and very low income in this state.**

22 **SECTION 12. In addition to and not in lieu of any other appropriation, there is appro-  
 23 priated to the Housing and Community Services Department, for the biennium beginning July  
 24 1, 2013, out of the General Fund, the amount of \$\_\_\_\_\_, which may be expended for pur-  
 25 poses of carrying out the provisions of sections 2 to 6 of this 2013 Act.**

26 **SECTION 13. In addition to and not in lieu of any other appropriation, there is appro-  
 27 priated to the Housing and Community Services Department, for the biennium beginning July  
 28 1, 2013, out of the General Fund, the amount of \$\_\_\_\_\_, which may be expended for pur-  
 29 poses of carrying out the provisions of sections 7 and 8 of this 2013 Act.**

30 **SECTION 14. Sections 2 to 9 and 11 of this 2013 Act and the amendments to ORS 456.561  
 31 and 659A.421 by sections 1 and 10 of this 2013 Act become operative on July 1, 2014.**

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