

Enrolled
Senate Bill 36

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CHAPTER

AN ACT

Relating to veteran loans; creating new provisions; amending ORS 88.740, 407.075, 407.085, 407.087, 407.125, 407.135, 407.145, 407.165, 407.169, 407.177, 407.201, 407.205, 407.215, 407.225, 407.275, 407.305, 407.315, 407.325, 407.375, 407.495, 407.515 and 407.555; and repealing ORS 407.115 and 407.265.

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

SECTION 1. ORS 407.075 is amended to read:

407.075. (1) The provisions of this chapter are intended to carry out the purposes of Article XI-A of the Oregon Constitution. The Legislative Assembly recognizes that its authority to define the scope and purpose of this chapter is limited by the purposes expressed in Article XI-A.

(2) The primary purpose of this chapter is to provide loan funds to qualifying Oregon veterans for the acquisition [*or improvement*] of farms and homes. The Legislative Assembly does not intend, by any past or present enactment, to establish as a principal purpose of this chapter the providing of subsidized energy financing.

SECTION 2. ORS 407.085 is amended to read:

407.085. [(1)] As used in [*Article XI-A, Oregon Constitution, and this chapter, for the purposes of administration*] **this chapter:**

[(a)] (1) "Acquisition" means[:]

[(A)] **the purchase** [*and improvement*] of a home or farm.

[(B)] *Payment of the balance of the purchase price and interest on a purchase contract, and the improvement of property thereby acquired.*]

[(C)] *Refinance of an existing purchase-money mortgage or mortgage in the nature thereof, and the improvement of property thereby purchased.*]

[(D)] *Improvement of a home or farm.*]

[(b)] (2) "Bonds" includes, but is not limited to, serial bonds, term bonds, notes, obligations, lines of credit, revolving credit agreements, loans, financing agreements or other evidence of indebtedness determined by the Department of Veterans' Affairs, with the approval of the State Treasurer, to be necessary or desirable to provide funds for the purposes expressed in Article XI-A of the Oregon Constitution.

[(2)] *As used in this chapter:*

[(a)] "Committee" means the Advisory Committee provided for by ORS 406.210.]

(3) "**Fixed interest rate**" means an interest rate on a home or farm loan that remains the same for the term of the loan.

[(b)] (4)(a) “Home” means [any residential-type structure, including outbuildings and the real property in connection with it, if any, including long-term leaseholds,] **a residential structure, including a manufactured home or a condominium unit**, which is established, maintained and used primarily as a principal residence by [the] a veteran.

(b) **“Home” includes real property connected to a residential structure, including any long-term leasehold and any outbuildings.**

[(c)] “Improvement” means new construction or any necessary or beneficial additions, alterations or changes appurtenant to the home or farm which protect or improve the basic livability or energy efficiency of the premises.]

[(d)] (5) [“Mobile home”] **“Manufactured home”** means a structure[, transportable in one or more sections, which is 10 feet or more in width, and contains more than 500 square feet of living space figured on exterior dimensions of the structure, exclusive of any hitch and is designed to be used as a dwelling by one family, and which remains as personal property under the laws of this state.] **that is:**

(a) **At least 20 feet in width;**

(b) **Constructed for movement on the public highways and that has sleeping, cooking and plumbing facilities;**

(c) **Intended for human occupancy;**

(d) **Being used for residential purposes;**

(e) **Classified and taxed as real property in the county where the structure is located; and**

(f) **Constructed in accordance with federal manufactured housing construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974 (P.L. 93-383).**

(6) **“Trust deed” has the meaning given that term in ORS 86.705.**

(7) **“Variable interest rate” means an interest rate on a home or farm loan that may change periodically during the term of the loan.**

SECTION 3. ORS 407.087 is added to and made a part of ORS chapter 407.

SECTION 4. ORS 407.087 is amended to read:

407.087. (1) As used in Article XI-A[, section 3,] of the Oregon Constitution **and this chapter**, “veteran” means a person who:

(a) Served on active duty with the Armed Forces of the United States:

(A) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released from active duty under honorable conditions;

(B) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;

(C) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;

(D) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or

(E) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;

(b) Received a combat[, expeditionary] or campaign ribbon or **an expeditionary** medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or

(c) Is receiving a nonservice-connected pension from the United States Department of Veterans Affairs.

(2) As used in subsection (1) of this section[.]:

(a) **“Active duty” does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or National Guard unit.**

(b) “Honorable conditions” has the meaning given that term in rules adopted by the Department of Veterans’ Affairs.

SECTION 5. ORS 407.125 is amended to read:

407.125. All moneys in the Oregon War Veterans' Fund created by ORS 407.495 may be advanced by the Department of Veterans' Affairs as loans to any person qualified for loans under the provisions of [section 3,] Article XI-A, **section 3**, Oregon Constitution, for the acquisition of farms and homes, as provided in [ORS 407.115, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565 and not otherwise] **this chapter**.

SECTION 6. ORS 407.135 is amended to read:

407.135. The Department of Veterans' Affairs is authorized and empowered, in the name and in behalf of the state, to **make or participate in the making of residential loans under this chapter; to undertake commitments to make residential loans; to purchase and sell residential loans; to commence and prosecute to judgment all suits, actions and proceedings necessary to protect the interest of the state; to bid [in] on property offered for sale under such proceedings and to acquire title to property for and in behalf of the state as a result of such proceedings; to accept deeds from borrowers in lieu of foreclosure; to sell, transfer, convey, lease or assign any property acquired by the department for and in behalf of the state; to make repairs and improvements or alterations; to pay taxes, liens and charges of every kind superior to the lien of the state; to pay the principal and interest on any obligations incurred in connection with such property; to dispose of such property;** and otherwise to administer such property in such manner as the department deems to be in the best interest of the state. All money received by the department from the sale, leasing or other disposition of any property shall be paid over to the State Treasurer and deposited in the Oregon War Veterans' Bond Sinking Account.

SECTION 7. ORS 407.165 is amended to read:

407.165. The Department of Veterans' Affairs may receive and hold for future disposition conditional payments from borrowers who have executed mortgages [and security instruments] **or trust deeds** under authority of ORS 407.225, indemnities for fire losses on secured property, and such other sums as must be held by the department in suspense pending further or final disposition thereof. Said funds shall be deposited in the State Treasury in the revolving account authorized by ORS 407.565 until they can be properly applied to the purposes for which they were paid to and received by the department.

SECTION 8. ORS 407.169 is amended to read:

407.169. (1) The Department of Veterans' Affairs shall make escrow accounts available to current and future borrowers and contract purchasers in connection with loan agreements and purchase contracts made under this chapter.

(2) Escrow accounts established under this section shall be consistent with general lending and servicing standards for real estate loan agreements in this state and with the standards used by the United States Department of Veterans Affairs and the Federal Housing Administration.

(3) Notwithstanding ORS 86.245 (5) and (7), the Department of Veterans' Affairs shall pay interest to a borrower or contract purchaser on funds deposited in the escrow account for the borrower or contract purchaser in the manner and at the rate of interest described in ORS 86.245 (1) to (4).

(4) The department shall adopt such rules as the department considers necessary to establish criteria for implementation of this section.

(5) As used in this section, "escrow account" means any account which is part of a real estate loan agreement or purchase contract, whether incorporated into the agreement or contract or as part of a separately executed document, whereby the borrower makes periodic prepayment to the department of estimated property taxes **and hazard insurance premiums**, and the department pays the charges out of the account at the due dates.

SECTION 9. ORS 407.201 is amended to read:

407.201. (1) When making a loan or otherwise extending credit under this chapter with moneys from the Oregon War Veterans' Fund, the Department of Veterans' Affairs shall comply with Title I (Truth in Lending Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.)

in the same manner required for a bank or national bank, as defined in ORS 706.008, when the bank extends credit in a transaction in which a security interest in real property is or will be acquired.

(2) In addition to the requirements of subsection (1) of this section, the department shall notify each person seeking to acquire a home or farm under this chapter, prior to the signing of a loan agreement or contract, of the variable interest rate provisions of ORS 407.275, 407.315, 407.325 and 407.335. Information required to be disclosed under this subsection includes a history of the interest rate increases on loans during the preceding 10 years and an estimate of the financial effect that an increase of one percent in the interest rate will have on the borrower's obligation under the *[mortgage, contract or other security]* loan agreement.

SECTION 10. ORS 407.205 is amended to read:

407.205. *[(1) Applications for loans for acquisition of a home or farm under this chapter shall be made to the Department of Veterans' Affairs.]*

(1) A person qualified under Article XI-A, section 3, of the Oregon Constitution, to apply for a loan for the acquisition of a home or farm must submit the application to the Department of Veterans' Affairs pursuant to the provisions of this chapter.

(2) An applicant may not borrow more than the maximum amount allowed for a loan under this section.

(3) The maximum amount allowed for a loan made under this section *[section, exclusive of funds disbursed under ORS 407.145 (2) and 407.275 (4),]* may not exceed **the least of:**

(a) The maximum original principal balance permitted on a single-family first mortgage loan **published** by the *[Federal National Mortgage Association, as published in its announcements and subsequently included in its Selling Guide]* **Federal Housing Finance Agency**, at a rate of interest provided by ORS 407.325;

(b) The maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans Affairs for its Home Loan Guaranty Program (38 U.S.C. 3701 et seq.; 38 C.F.R. part 36); or

(c) If the property to be acquired with the funds from the loan is a farm, 90 percent of the net appraised real property value.

(4) *[An eligible individual may not receive or, under ORS 407.305, assume more than four loans under this chapter. An applicant may not borrow more than the maximum amount allowed for a loan under this section, except that when a loan is made on property that]* **When calculating the maximum amount allowed for a loan under this section, the Department of Veterans' Affairs shall exclude:**

(a) Funds disbursed under ORS 407.145 (2) and 407.275 (4); and

(b) The amount of a loan that has been repaid, or for which the property securing the loan has transferred by deed or otherwise, if the property:

(A) Is destroyed by fire or other natural hazard[.]; or

(B) Is taken through condemnation or lost or disposed of for a compelling reason devoid of fault on the part of the applicant. *[and when the loan is repaid or the property is transferred by deed or otherwise, the loan may be excluded from consideration in computing the maximum loan amount allowable. However, the loan right provided in this section may be restored not more than once while an unrepaid balance remains on a previous loan granted to the applicant.]*

(5) An eligible person may not receive or, under ORS 407.305, assume more than four loans under this chapter.

[(2)] **(6)** For the purposes of this section, an applicant owns a home when the applicant has fee simple title to the home or is the purchaser of the home under a contract of sale or other instrument of sale. Earnest money or preliminary sales agreements, options or rights of first refusal are not contracts or instruments of sale under this subsection.

[(3) As used in this section, "home" includes mobile homes and houseboats.]

SECTION 11. ORS 407.215 is amended to read:

407.215. No applicant is entitled to borrow more than the maximum amount allowed under ORS 407.205 other than for reasons specified in ORS 407.205 except that when the property on which the

loan was made becomes the property of the applicant's spouse as a result of a judgment declaring a marriage void or dissolved and the loan is repaid, or remains unrepaid and there is an assumption of primary liability on the loan by a party **other than the applicant**, [such] the loan may be excluded from consideration in computing the maximum loan allowable under ORS 407.205.

SECTION 12. ORS 407.225 is amended to read:

407.225. (1) When the Department of Veterans' Affairs receives an application pursuant to ORS 407.205, the department shall immediately *[investigate and process it as provided by law]* **process the application**.

(2) The security for the loan [shall] **must** consist of the property to be acquired by the [veteran as a home or a farm. The security shall] **applicant and must** be secured by a mortgage or [security agreement] **trust deed** in the full amount of the loan [which].

(3) **The mortgage or [security agreement shall] trust deed must:**

(a) Be either a first lien **on the property** or a lien insured by mortgagee's title insurance against loss from any prior encumbrance[.]; **and**

(b) *[The department may make subsequent loans for improvements to the security if there are no intervening liens between the first lien of the department created under this section and the recorded liens upon the security securing repayment of such subsequent improvement loans. Such consecutive liens, for the purposes of this chapter, shall be deemed collectively as a first lien upon the security. The mortgage or security agreement shall]* Provide that the borrower, or any subsequent owner of the secured property, may pay all or any part of the loan at any time without penalty.

[(2) A mobile home shall be secured by a security agreement in the full amount of the loan and the department shall perfect a security interest in favor of the State of Oregon. The security agreement shall provide that the borrower or any subsequent owner of the mobile home, may pay all or any part of the loan at any time without penalty. The security agreement shall provide for immediate acceleration of the unpaid balance of the loan if the mobile home is moved from the original site listed in the security agreement without first obtaining the written consent of the department. The security agreement shall also provide that removal of the mobile home to a site outside of this state shall constitute an act of default and result in immediate acceleration of the unpaid balance of the loan.]

[(3) Loans may not exceed:]

[(a) The maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans Affairs for its Home Loan Guaranty Program (38 U.S.C. 3701 et seq.; 38 C.F.R. part 36);]

[(b) 85 percent of the net appraised value on homes that are not real property; and]

[(c) 90 percent of the net appraised value on farms that are real property.]

SECTION 13. ORS 407.275 is amended to read:

407.275. (1) *[Loans]* **A loan** may be made bearing interest at the rate per annum prescribed as provided by ORS 407.325. *[Loans]* **A loan** may be amortized over a period of not more than 40 years for *[homes]* **a home** other than *[mobile homes]* **a manufactured home**. *[Loans]* **A loan** for *[mobile homes]* **a manufactured home** may be amortized over a period not exceeding the expected life of the *[mobile]* **manufactured** home, as determined by the Department of Veterans' Affairs. The limitations contained in this subsection do not preclude the department from later extending the amortization period.

(2) If the ownership of the secured property is transferred by deed or otherwise to anyone other than a veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution, the veteran's surviving spouse or unremarried former spouse, the veteran's surviving child or stepchild, another veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution who assumes the previous loan for the property as described in ORS 407.305 or a governmental entity when the secured property is transferred for public use, the interest from the date of transfer shall be at the rate per annum then fixed as provided by ORS 407.335. However, the department, during the term of the loan, may periodically prescribe the interest rates to be paid by the transferee.

(3) Ownership of property that constitutes security for a loan made to a veteran under this chapter and Article XI-A of the Oregon Constitution may not be transferred by deed or otherwise to anyone other than the veteran's surviving spouse, unremarried former spouse, surviving child or stepchild or another veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution who assumes the previous loan for the property as described in ORS 407.305, unless the property is used primarily as the principal residence of the transferee for at least two years after the transfer or such shorter period of time as the department for good cause may allow.

(4) *[Mortgages, trust deeds or security agreements]* **A mortgage or trust deed** on property given to secure any loan made under ORS 407.125 or statutes supplementary thereof may provide that the taxes and insurance premiums may be paid by the department from the Oregon War Veterans' Bond Sinking Account. The amount so paid may be added to and become part of the principal of the loan and be repaid as prescribed by the department. The department may prescribe any method or period for repayment of the amount so paid that is not in conflict with the mortgage, **the** trust deed or *[security agreement]* **a separate agreement**. The department may prescribe any method or period for repayment of interest on the amount so paid that is not in conflict with the mortgage, **the** trust deed, *[security agreement]* or a separate agreement with the borrower.

SECTION 14. ORS 407.325 is amended to read:

407.325. (1) The Department of Veterans' Affairs, *[with the advice of the Advisory Committee, will]* **shall** periodically, *[during the term of the loan,]* prescribe the interest *[rates to be paid by the applicant,]* **rate to be paid by an applicant for a home or farm acquisition loan with a fixed interest rate**, taking into consideration the current value of the money, the solvency of the loan program, and the *[rates' effect on veterans]* **effect of the rate on veteran applicants**. *[If the department, after considering the factors specified in this section, determines that there is an economic need for a higher rate of interest on loans made for the acquisition of mobile homes and houseboats, the department shall prescribe the rate of interest for the acquisition of a mobile home or houseboat at not higher than two percent more per annum than the basic rate established by this section.]*

(2) The department shall periodically, during the term of a home or farm loan with a variable interest rate, prescribe the interest rate to be paid by an applicant, taking into consideration the current value of the money, the solvency of the loan program and the effect of the rate on veteran applicants.

[(2)] **(3)** Except as provided in subsection *[(3)]* **(4)** of this section:

(a) The rate of interest on *[loans]* **a loan** granted on or after May 27, 1971, and originally set at five and nine-tenths percent per annum may not be increased to more than seven and nine-tenths percent per annum.

(b) The rate of interest on *[loans]* **a loan** granted on or after January 1, 1981, and originally set at seven and two-tenths percent per annum may not be increased to more than nine and two-tenths percent per annum.

[(c) The rate of interest on a loan granted on or after May 27, 1971, for the acquisition of a mobile home or houseboat originally set at seven and nine-tenths percent per annum may not be increased to more than nine and nine-tenths percent per annum.]

[(3)] **(4)** The department may prescribe the interest *[rates]* **rate** to be paid by *[the]* **an** applicant at a rate greater than the rates described in subsection *[(2)]* **(3)** of this section, but only if the department determines, at the sole discretion of the department, that such action *[reduces the probability that]* **is necessary to avoid** invoking the provisions of **Article XI-A**, section 4, *[Article XI-A]* of the Oregon Constitution *[will become necessary]*.

[(4)] **(5)** When, during two consecutive fiscal years, the cash flow projection and the review of the projection performed under ORS 407.185 indicate that the Oregon War Veterans' Bond Sinking Account will maintain a balance throughout the term of the projections that exceeds the succeeding years' debt service and operating expenses for the loan program, the department shall prepare a program for reducing the interest rates charged under this section in such a manner as to *[insure]* **ensure** the future solvency and self-supporting nature of the loan program. However, no reduction

in interest rates shall occur if the variable rate debt, if converted to a fixed rate, requires retention of the amounts in order to meet projections.

[(5)] (6) Notwithstanding the rate prescribed for acquisition of a home as provided in subsections (1) to [(4)] (5) of this section, the department may periodically establish separate and distinct interest rates for home improvement loans **granted before the effective date of this 2019 Act.**

SECTION 15. ORS 407.495 is amended to read:

407.495. (1) The money arising from the sale of each issue of bonds authorized under [section 2,] Article XI-A, **section 2**, of the Oregon Constitution, shall be deposited in the State Treasury and be credited to a special fund separate and distinct from the General Fund, to be known as the Oregon War Veterans' Fund[; *which fund hereby is appropriated for the purpose of carrying out the provisions of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415 and 407.515 to 407.565 and to purchase bonds issued for the purposes of such provisions. With the approval of the Department of Veterans' Affairs, the moneys in the fund not immediately required for loaning may be invested as provided in ORS 293.701 to 293.857. The earnings from such investments shall inure to the Oregon War Veterans' Fund*].

(2) In addition to the money arising from the sale of such bonds, the Oregon War Veterans' Fund shall also consist of:

- (a) All moneys received as payments on principal and interest of loans made under ORS 407.125;
- (b) All moneys received as accrued interest upon bonds sold;
- (c) All moneys derived from tax levies provided for in ORS 291.445;
- (d) All moneys derived from the sale, rental or administration of property acquired by foreclosure or other proceeding, or deed;
- (e) All moneys received as interest earned on the investment of moneys in the Oregon War Veterans' Fund;
- (f) All moneys received as proceeds from the sale of refunding bonds; and
- (g) All other moneys accruing under this [section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565] **chapter.**

(3) All moneys in the Oregon War Veterans' Fund are continuously appropriated to the Department of Veterans' Affairs for the following purposes:

- (a) To carry out the provisions of this [section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565] **chapter;**
- (b) To purchase bonds issued for the purposes of such provisions; and
- (c) Except for moneys derived from the sale of bonds or from tax levies, for payment of expenses of the administration of this [section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565] **chapter.**

(4) With the approval of the department, the moneys in the Oregon War Veterans' Fund not immediately required to provide loans for the acquisition of farms and homes may be invested as provided in ORS 293.701 to 293.857. The earnings from such investments shall be credited to the Oregon War Veterans' Fund.

SECTION 16. ORS 407.515 is amended to read:

407.515. (1) The Oregon War Veterans' Bond Sinking Account is created as a restricted account within the Oregon War Veterans' Fund. The sinking account shall consist of:

- (a) All moneys received as payments on principal and interest of loans made under ORS 407.125;
- (b) All moneys received as accrued interest upon bonds sold;
- (c) All moneys derived from tax levies provided for in ORS 291.445;
- (d) All moneys derived from the sale, rental or administration of property acquired by foreclosure or other proceeding, or deed;
- (e) All moneys received as interest upon investments of the account and the Oregon War Veterans' Fund;
- (f) All moneys received as proceeds from the sale of refunding bonds; and
- (g) All other moneys accruing under [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515] **this chapter** not required to be credited to the Oregon War Veterans' Fund.

(2) Disbursements from the sinking account shall be made upon submission of duly verified claims that are approved by the Director of Veterans' Affairs. The Secretary of State may audit the claims in the manner that other claims against the state are audited. The moneys in the sinking account, other than those derived from tax levies and from sales of refunding bonds, are continuously appropriated for payment of expenses of administration of [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565] **this chapter**. The moneys in the sinking account may be invested as provided in ORS 293.701 to 293.857.

(3) Amounts in the sinking account shall be held and set aside separately from the amounts in the Oregon War Veterans' Fund and any other funds or assets of this state, but such account may be accounted for as part of the Oregon War Veterans' Fund.

(4) The debt service reserve account within the sinking account shall be maintained as a sub-account within the sinking account dedicated to provide funds for the payment of bonds issued under authority of Article XI-A of the Oregon Constitution.

(5) Nothing in this section shall be construed so as to impair any covenant or agreement with the holders of such bonds heretofore entered into by the director on behalf of this state with respect to the maintenance of the sinking account as heretofore constituted and any such covenant and agreement shall remain in full force and effect.

(6) The director may create subaccounts in the sinking account necessary for appropriate administration of the director's duties including, but not limited to, providing for the issuance, security, payment or administration of bonds or to preserve the federally tax exempt status of bonds issued on a federally tax exempt basis. The director may segregate such subaccounts from other subaccounts used for other purposes including, but not limited to, the issuance, security, payment or administration of bonds or other obligations, whether previously or subsequently issued.

SECTION 17. ORS 407.555 is amended to read:

407.555. Except as provided in ORS 407.415, all claims duly approved by the Department of Veterans' Affairs, incurred in pursuance of [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565] **this chapter**, shall be paid by warrants drawn upon the State Treasurer by the Oregon Department of Administrative Services upon the appropriate funds for the payment of such claims.

SECTION 18. ORS 88.740 is amended to read:

88.740. (1) The Department of Veterans' Affairs is authorized, in whatever manner the department considers advisable and to the extent necessary to carry out the provisions of ORS 88.710 to 88.740, to use the surplus moneys in the Oregon War Veterans' Bond Sinking Account, other than the moneys therein which are derived from tax levies and sales of refunding bonds, that are earnings in excess of the amount required to amortize the bonded indebtedness incurred under the authority of **Article XI-A**, section 1, [Article XI-A] of the Oregon Constitution, and [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495, 407.515, 407.555 and 407.565] **ORS chapter 407**.

(2) The property acquired under ORS 88.710 to 88.740 shall represent an investment of the Oregon War Veterans' Bond Sinking Account and all moneys received by the department from the sale, lease or other disposition of any property shall be deposited in the Oregon War Veterans' Bond Sinking Account.

(3) The department may pay to the State Treasurer, to be deposited in the General Fund available for general governmental expenses:

(a) An amount equal to the balance owing on any existing real estate contract arising out of the sale of property by the department which was an investment of the General Fund pursuant to ORS 88.710 to 88.740, and upon such payment the interest represented by the real estate contract shall represent an investment of the Oregon War Veterans' Bond Sinking Account.

(b) An amount equal to the General Fund moneys expended for the acquisition of presently unsold properties pursuant to ORS 88.710 to 88.740, and upon such payment the properties shall represent an investment of the Oregon War Veterans' Bond Sinking Account.

SECTION 19. ORS 407.177 is amended to read:

407.177. (1) When the Department of Veterans' Affairs considers such contracts necessary to improve the financial condition of the loan program conducted under this chapter, the department is authorized to enter into contracts with lending institutions under which the lending institutions may provide any of the following services:

- (a) Processing of new loans and purchase contracts; and
- (b) Management and servicing of new loans and purchase contracts.

(2) Contracts entered into by the department under this section may provide that the lending institution:

- (a) Receive applications for loans for the acquisition of homes or farms under this chapter;
- (b) Immediately investigate and process an application for a loan as provided by law; and
- (c) For approved loans or contracts, if requested by the department, service the loan or purchase contract for a period of time specified by the department.

(3) When a lending institution, pursuant to a contract authorized by this section, receives an application for a loan for the acquisition of a manufactured home[, *as defined in ORS 197.295*], the lending institution shall investigate and process the application in the manner prescribed in the contract between the lending institution and the department.

(4) When a lending institution, pursuant to a contract authorized by this section, investigates and processes a loan application that it considers eligible for approval under this chapter, the lending institution shall notify the department and state the reasons why the loan may be approved under this chapter. The department shall retain final authority to approve or disapprove the loan. If the department disapproves the loan, the department shall notify the lending institution and the applicant of the disapproval and shall indicate the reasons for the disapproval. When the department is satisfied that all requirements for approval of a loan have been met by the applicant and the lending institution and that the property offered as security for the loan protects the interests of the state, the department shall transfer to the lending institution an amount [*of money*] from the Oregon War Veterans' Fund equal to the loan amount approved by the department. The lending institution shall disburse the [*money*] **amount** in the manner prescribed by the department. The lending institution shall record the mortgage[,] **or** trust deed[, *contract or other security agreement relating to the loan*] and then shall forward all the original loan documents to the department.

(5) All moneys received by a lending institution as payments on principal and interest for loans made under this chapter shall be paid to the department in accordance with the terms of the contract between the department and the lending institution.

(6) The department and lending institution shall mutually agree upon the compensation to be paid to the lending institution for services performed under a contract authorized by this section. Such compensation may be a fixed annual payment or a percentage of the amount of each loan or purchase contract processed or serviced by the lending institution under the contract.

(7) Contracts entered into under this section are exempt from the requirements of the provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C regarding personal services contracts.

(8) As used in this section, "lending institution" means an entity that is licensed to conduct business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans and that, in the judgment of the department, is capable of meeting the needs of the department in carrying out this chapter.

SECTION 20. ORS 407.145 is amended to read:

407.145. (1) The Department of Veterans' Affairs may acquire property by purchase when the acquisition of such property is necessary to protect the interest of the state because of default in repayment of loans made in accordance with ORS 407.125 or statutes supplementary thereof. The department shall exercise control of all the property while the title remains vested in the state.

(2) The department may take any action and make disbursements as may be necessary to protect the securities for loans acquired under this chapter. Any disbursement so made shall be added to the amount due from the borrower and shall bear interest [*at the rate then fixed for home improve-*

ment loans under ORS 407.325 or] at the rate on the existing loan[, whichever is higher]. Any such disbursement shall be made only upon order of the department.

(3) Funds for the protection of security may be disbursed from the Oregon War Veterans' Fund including the Oregon War Veterans' Bond Sinking Account as the department shall determine.

SECTION 21. ORS 407.305 is amended to read:

407.305. When a veteran who is eligible for a loan under this chapter and Article XI-A of the Oregon Constitution seeks to acquire a home or farm that is serving as security for a previous loan made under this chapter, the veteran may choose either to receive a new loan for the property or to assume the previous loan. If the loan balance for the loan being assumed does not exceed the amount of the veteran's entitlement under ORS 407.205, the interest rate to be paid on the assumed loan balance shall be the rate per annum prescribed under ORS 407.315. In addition to the amount assumed, the veteran may apply for and receive additional funds to be applied to the purchase price. The interest rate to be paid on the additional funds shall be the rate per annum currently prescribed under ORS 407.325. The sum of the assumed loan balance and the additional funds shall not exceed the amount of the veteran's entitlement under ORS 407.205 or the maximum loan amount prescribed by [ORS 407.225 (3)] **ORS 407.205 (3)(b) or (c)**. An assumption or an assumption with additional funds under this section shall be deemed to be one loan and the veteran making the assumption or the assumption with additional funds shall be deemed to be a borrower for the purposes of ORS 407.145, 407.205, 407.215, 407.325, 407.385, 407.465 and 407.475.

SECTION 22. ORS 407.315 is amended to read:

407.315. (1) When a veteran assumes a previous loan under ORS 407.305, the interest rate to be paid by the veteran from the date of assumption shall be the rate per annum prescribed periodically by the Department of Veterans' Affairs, taking into consideration the solvency of the loan program and the interest rates currently prevailing in this state for loans secured by owner-occupied residential property.

(2) The department shall make a cash flow projection to determine if assumptions at the interest rate established under subsection (1) of this section are among the causes of a negative cash flow projection for the loan program. The cash flow projection required by this section shall be an estimate of the revenue received from the repayment of [mortgages] **loans**, interest earnings, administrative expenses of the loan program, payment of interest and principal on outstanding debt and other relevant factors during the period in which current outstanding bonds are required to be retired.

(3) If the cash flow projection required under subsection (2) of this section indicates that assumptions of loans at the interest rate established under subsection (1) of this section are a cause of a negative cash flow projection for the loan program, the department, by rule and notwithstanding ORS 407.325 [(2)] **(3)**, shall increase the interest rate to be paid for loans assumed under ORS 407.305 to the lowest rate per annum that assures a positive cash flow projection, but not exceeding the rate then prescribed under ORS 407.325.

SECTION 23. ORS 407.375 is amended to read:

407.375. (1) When the Department of Veterans' Affairs offers for sale a home or farm obtained for and in behalf of the state under ORS 407.135 and 407.145 (1), the department shall provide notice of the proposed sale to prospective purchasers. The notice shall state the minimum bid that will be accepted.

(2) Subject to subsection (3) of this section, the department shall accept the highest such bid or offer received during the 15-day period after a home or farm acquired under ORS 407.135 or 407.145 (1) is first offered for sale unless the person making the highest bid or offer is disqualified from such purchase based on prior credit history, inadequate income or other grounds for refusal established in rules adopted by the department. Prior to such refusal, the person making the highest bid or offer shall be given the opportunity to purchase the property for cash.

(3) When the highest bid under subsection (2) of this section is made by a person who is not eligible for a loan under Article XI-A of the Oregon Constitution, the person who submits the highest bid or offer received from those persons eligible for a loan under Article XI-A of the Oregon

Constitution shall be given the opportunity to purchase the property for the amount bid by the highest bidder. The property must be purchased by matching the highest bid within a period of time and at a place specified by rule of the department.

(4) When the department sells a home or farm obtained under ORS 407.135 or 407.145 (1) to a person, the department may accept improvement of the property by such purchaser in lieu of other means of satisfying the requirements of [ORS 407.225 (3)] **ORS 407.205 (3)(b) or (c)**. For the purpose of this section, all purchasers are subject to the provisions of [ORS 407.225 (3)] **ORS 407.205 (3)(b) or (c)**. The department shall require the purchaser to provide an improvement plan containing a description of the proposed improvements to be made and the cost of the necessary work and materials. An appraiser employed by the department must certify that the ratio of the purchase price and the net appraised value of the home and farm after the proposed improvement is completed will satisfy the requirements of [ORS 407.225 (3)] **ORS 407.205 (3)(b) or (c)**. The department may then approve the sale subject to the condition that the improvement of the home or farm be completed within 180 days after purchase. Failure by the applicant to complete the improvement within the time allowed shall be considered a breach of the purchase agreement and grounds for foreclosure by the department. Upon timely application and a showing that the improvement cannot be completed within the time allowed because of circumstances beyond the applicant's control, the department may grant the applicant an additional period not to exceed 180 days in which to complete the improvement.

(5) The rate of interest for a contract made for the acquisition of a home or farm obtained by the department under ORS 407.135 or 407.145 (1) shall be the rate per annum prescribed by the department.

(6) Notwithstanding subsection (5) of this section, if the provisions of subsections (1) to (3) of this section have been complied with and no satisfactory bid has been received, the department, after considering the time value of money, may sell the home or farm at a private negotiated sale at any price or at any rate of interest, either fixed or variable, that the department considers to be necessary and prudent to sell the property and that provides an economic benefit to the home and farm loan program that is equivalent to the property being marketed at the current appraised value of the property and the rate prescribed under subsection (5) of this section.

(7) Except as provided in this subsection, redemption of a home or farm obtained and sold by the department under ORS 407.135 or 407.145 (1) shall be made as provided in ORS 18.960 to 18.985. When the department accepts improvement of property by a purchaser in lieu of purchase money or cash down payment under subsection (4) of this section, redemption shall be made by paying an amount equal to the fair market value of those improvements actually made to the property under the improvement plan described in subsection (4) of this section, with interest thereon at the rate of nine percent per annum from the date of sale. The department shall determine the fair market value of the improvements and such amount shall be paid in addition to the amount of purchase money and interest thereon required under ORS 18.966 and 18.967.

SECTION 24. ORS 407.115 and 407.265 are repealed.

Passed by Senate February 19, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 23, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State