

Enrolled House Bill 2094

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Housing and Community Services Department)

CHAPTER

AN ACT

Relating to housing; amending ORS 456.548, 456.620, 456.725 and 458.610.

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

SECTION 1. ORS 458.610 is amended to read:

458.610. For purposes of ORS 458.600 to 458.665:

(1) "Area median income" means the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

(2) "Council" means the Oregon Housing Stability Council established in ORS 456.567.

(3) "Department" means the Housing and Community Services Department established in ORS 456.555.

(4) "Low income" means income that is more than 50 percent and not more than 80 percent of the area median income.

(5) "Minority" means an individual:

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

(b) Who is of Hispanic culture or origin;

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

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

(6) "Moderate income" means income that is more than 80 percent and not more than 120 percent of the area median income.

(7) "Organization" means a:

(a) Nonprofit corporation established under ORS chapter 65;

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

(c) Local government as defined in ORS 197.015.

(8) "Persons with disabilities" means persons with handicaps described in 42 U.S.C. 3602(h).

(9) "Very low income" means income that is 50 percent or less of the area median income.

(10) "Veteran" has the meaning given that term [in ORS 408.225] **by the department by rule.**

SECTION 2. ORS 456.548 is amended to read:

456.548. As used in ORS 456.548 to 456.725, unless the context requires otherwise:

(1) "Bonds" means any bonds, as defined in ORS 286A.001, or any other evidence of indebtedness, issued under ORS 456.515 to 456.725 or issued in anticipation of bonds and payable from the proceeds of bonds issued.

(2) "Capital reserve account" or "capital reserve accounts" means one or more of the special trust accounts that may be established by the Housing and Community Services Department within the Housing Finance Fund.

(3) "Consumer housing cooperative" means a cooperative corporation formed under ORS chapter 62 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 62, that:

(a) The consumer housing cooperative has been organized exclusively to provide housing facilities for persons and families of lower income and such social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that no unreasonable part of the net income or net earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) The consumer housing cooperative is in no manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any transaction therewith, except that such limitation shall apply to the members of the cooperative only to the extent provided by rules of the department.

(d) The operations of the consumer housing cooperative may be supervised by the department and that the consumer housing cooperative shall enter into such agreements with the department as the department may require to provide regulation by the department of the planning, development and management of any housing project undertaken by the cooperative and the disposition of the property and other interests of the cooperative.

(4) "Development costs" means the costs that have been approved by the department as appropriate expenditures and includes, but is not limited to:

(a) Payments for options to purchase property for the proposed housing project site, deposits on contracts of purchase, payments for the purchase of property as approved by the department, legal, organizational and marketing expenses including payment of attorney fees, managerial and clerical staff salaries, office rent and other incidental expenses, payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work;

(b) Expenses for surveys as to need and market analyses; and

(c) Such other expenses incurred by the qualified housing sponsor as the department may deem necessary under ORS 456.548 to 456.725.

(5) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an agency or instrumentality thereof.

(6) "Housing development" means a development that contains housing units for persons or families of lower income and such other incidental elements of residential, commercial, recreational, industrial, communal or educational facilities as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development.

(7) "Housing finance bond declaration" means a written instrument signed by the Director of the Housing and Community Services Department **or the designee of the director** and on file with and bearing the certificate of approval of the State Treasurer or the designee of the State Treasurer, and all housing finance bond declarations supplemental to that instrument.

(8) "Housing Finance Fund" means the Housing Finance Fund established in ORS 456.720 (1).

(9) "Lending institution" means any bank, mortgage banking company, trust company, savings bank, credit union, national banking association, federal savings and loan association or federal credit unit maintaining an office in this state, or any insurance company authorized to do business in this state.

(10) "Limited dividend housing sponsor" means a corporation, trust, partnership, association or other entity, or an individual that is a mortgagor.

(11) "Manufactured dwelling park nonprofit cooperative" has the meaning given that term in ORS 62.803.

(12) "Manufactured housing" means a dwelling unit manufactured off-site having a minimum width of 10 feet and a minimum area of 400 square feet built on a permanent chassis and designed to be used for permanent residential occupancy whether or not on a permanent foundation, and that contains permanent eating, cooking, sleeping and sanitary facilities and meets such standards as the department determines, by rule, are reasonable to maintain the quality, safety and durability of the dwelling, the sanitary requirements of the communities in which they are located and the security of the loans that the department may finance for the purchase of the dwellings.

(13) "Nonprofit housing corporation" means an organization formed under ORS chapter 65 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 65, that:

(a) The corporation has been organized exclusively to provide housing facilities for persons and families of lower income and such other social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All the income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation may inure to the benefit of any private individual, firm, corporation, partnership or association.

(c) The corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in transactions therewith.

(d) The operations of the corporation may be supervised by the department and that the corporation shall enter into such agreements with the department as the department may require to regulate the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and other interests of the corporation.

(14) "Person of lower income" or "family of lower income" means:

(a) A person or family residing in this state whose income is not more than 80 percent of area median income, adjusted for family size, as determined by the Oregon Housing Stability Council based upon information from the United States Department of Housing and Urban Development;

(b) A person or family residing in this state whose income, adjusted for family size, is below the level the Housing and Community Services Department has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the cost of utilities and taxes, for not more than 25 percent of the gross income of the person or family; or

(c) Any person or family the department determines is appropriate to treat as a person of lower income or a family of lower income incidental to the accomplishment of department programs for persons and families of lower income described in paragraphs (a) and (b) of this subsection.

(15) "Project cost" or "costs of the project" means the sum of all reasonable expenses incurred by a qualified housing sponsor in undertaking and completing a housing project approved by the department. "Project costs" or "costs of the project" include but are not limited to the expenses incurred by a qualified housing sponsor for:

(a) Studies and surveys;

(b) Plans, specifications, architectural and engineering services;

(c) Legal, organizational and other special services;

(d) Financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated housing units;

(e) Movement of existing buildings to new sites; the cost of acquisition, or estimated fair market value, of land and other interests in real estate;

(f) Rehabilitation, reconstruction, repair or remodeling of existing buildings;

(g) Estimated carrying charges during construction and for a reasonable period thereafter;

(h) Placement of tenants or occupants and relocation services in connection with the housing project;

(i) Reasonable builder's or sponsor's profit and risk allowance; and

(j) Development costs not otherwise included in this subsection.

(16) "Qualified housing sponsor" [*includes,*] **means**, subject to the approval of the department **under ORS 456.620 (2):**

(a) A consumer housing cooperative;

(b) A limited dividend housing sponsor;

(c) A nonprofit housing corporation;

(d) A for-profit housing sponsor [*including, but not limited to, an individual operating in compliance with the criteria adopted by the department under ORS 456.620 (1)*];

(e) A housing authority [*created by ORS 456.075*];

(f) An urban renewal agency created by ORS 457.035; and

(g) Any city or county governing body or agency or department designated by the governing body.

(17) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land development and acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto and as the department determines improve the quality of the development as it relates to housing for persons or families of lower income and the financial feasibility of the development. "Residential housing" includes, but is not limited to, a specific work or improvement within this state undertaken to provide mobile home or manufactured dwelling parks as defined in ORS 446.003. As used in this subsection, "land development" includes, but is not limited to, the improvement of streets and alleys and the construction of surface drains, sewers, curbing and sidewalks.

(18) "Residential loan" means any of the following:

(a) A loan that is for the acquisition, construction, improvement or rehabilitation of residential housing and, if the loan is for acquisition or construction of residential housing, that is secured by a first lien on real property located in the state and:

(A) Improved by a newly constructed, existing or rehabilitated residential structure for persons or families of lower income; or

(B) Unimproved if the proceeds of such loan shall be used for the erection of a residential structure thereon, whether or not such loan is insured or guaranteed by the United States or any instrumentality or agency thereof.

(b) An insured or guaranteed loan for the acquisition of manufactured housing or for the acquisition of a lot described in ORS 92.840 by a manufactured dwelling park tenant.

(c) A loan for the purchase of a proprietary lease and related cooperative shares in a housing cooperative formed under ORS chapter 62 secured by a security interest of first priority and a pledge or an assignment of proprietary leases and related cooperative shares.

(19) "Revolving account" means the Housing and Community Services Department Revolving Account created in ORS 456.574.

SECTION 3. ORS 456.620 is amended to read:

456.620. In carrying out housing programs, the Housing and Community Services Department shall:

(1) With the approval of the Oregon Housing Stability Council, adopt standards for the planning, development and management of housing projects for which qualified housing sponsors receive all or a portion of any required financing under ORS 456.548 to 456.725, for audits and inspections to determine compliance with such standards and adopt criteria for the approval of qualified housing sponsors under ORS 456.548 to 456.725.

(2) Adopt criteria [*for the approval of*] **by which the department may approve or disqualify** qualified housing sponsors [*in ORS 456.548 to 456.725*].

(3) Enter into agreements with qualified housing sponsors to regulate the planning, development and management of housing projects constructed with the assistance of the department under ORS 456.548 to 456.725.

(4) With the approval of the council, establish maximum household income limits for all or a portion of the units in housing projects, housing developments or other residential housing financed in whole or in part by the department. A maximum of one-third of the units in a housing project, housing development or other residential housing financed by the department may be rented to households with an income level exceeding 120 percent of the median family income level, as determined by the department. If the income level in any unit exceeds 120 percent of the median family income, the department shall, to the extent practicable, require that the project, development or other housing financed by the department have a percentage of low income units that is higher than the minimum percentages established in ORS 456.120 (19) for projects financed by local housing authorities or income limitations that are lower than the limits described in ORS 456.120 (19) or a combination thereof. Income limits for department programs administered on a statewide basis may be established by reference to the median family or personal income in the state, or in various regions in the state, as determined by the department. This subsection does not restrict the acquisition of manufactured dwelling parks.

(5) With the approval of the council, ensure that financing is provided in the department's programs for manufactured housing and for the purchase of lots described in ORS 92.840 by manufactured dwelling park tenants.

SECTION 4. ORS 456.725 is amended to read:

456.725. (1) Unless the qualified housing sponsor[, *as defined in ORS 456.548,*] has agreed not to discriminate against the initial dwelling unit purchaser or any tenant who is a parent or legal guardian with whom a child resides or is expected to reside, the housing sponsor shall not be entitled to any benefits for the construction, substantial rehabilitation or permanent financing of multiple unit residential housing or owner occupied dwelling units in condominiums or cooperatives from any of the following:

(a) Any state financed or sponsored housing program.

(b) Any tax exemption or limited assessment under ORS 307.600 to 307.637 or 308.450 to 308.481.

(2) Subsection (1) of this section does not apply where the dwelling units are occupied exclusively by households, the heads of which are 58 years or older.

(3) The Housing and Community Services Department shall adopt rules to establish and implement a grievance procedure for any unit purchaser or tenant who alleges violation of subsection (1) of this section whereby the grievance can be resolved by means of conciliation. Nothing in this section limits the right of the Housing and Community Services Department to enforce subsection (1) of this section by other appropriate remedies.

(4) The city shall terminate the exemption under ORS 307.600 to 307.637 upon a finding that the qualified housing sponsor which has the exemption has violated subsection (1) of this section.

(5) The governing body shall terminate the limited assessment under ORS 308.450 to 308.481 upon a finding that the qualified housing sponsor which has the limited assessment has violated subsection (1) of this section.

(6) Nothing in this section prevents the qualified housing sponsor from limiting the number of occupants in a unit depending on the number of rooms in compliance with a schedule adopted by rule by the Housing and Community Services Department or by local ordinance adopted by the governing body.

(7) Nothing in this section requires or prohibits a qualified housing sponsor from providing facilities to accommodate the children of tenants.

Passed by House April 7, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 11, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State