

HOUSE AMENDMENTS TO HOUSE BILL 2095

By COMMITTEE ON HOUSING

March 25

1 On page 1 of the printed bill, line 3, delete “and 456.263” and insert “, 456.263, 456.264 and
2 456.265”.

3 On page 3, delete lines 34 through 45 and delete page 4.

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

5 “**SECTION 4.** ORS 456.262 is amended to read:

6 “456.262. *[(1)] A property owner shall provide notice in a format prescribed by the Housing and*
7 *Community Services Department, including by electronic delivery or registered or certified mail, to each*
8 *local government entitled to notice under ORS 456.260 and to the department, no sooner than 30 months*
9 *prior and at least 24 months prior to any withdrawal of the participating property from publicly sup-*
10 *ported housing, including by an expiration of a contract.]*

11 “[~~(2)~~] (1) *[The] After the owner of a participating property has delivered the notice under*
12 **ORS 456.260 (1) or 30 months prior to the date when the contract term would expire as de-**
13 **scribed in ORS 456.260 (1)(a), whichever is earlier, the Housing and Community Services De-**
14 **partment** may appoint a designee to act as purchaser of the participating property. The appointment
15 becomes effective upon the department delivering to the property owner notice of the appointment
16 of a designee. The department must consult with each local government where the property is lo-
17 cated before appointing a designee under this subsection. The department shall enter into a written
18 agreement with the appointed designee requiring that the designee and any of the designee’s suc-
19 cessors or assigns:

20 “(a) Agree to preserve the affordability of the participating property; and

21 “(b) Assume all rights and responsibilities attributable to the department as a prospective pur-
22 chaser of the participating property.

23 “[~~(3)~~] (2) *[After the property owner has delivered the notice] On or after the date that the de-*
24 **partment may appoint a designee** under subsection (1) of this section, a qualified purchaser may
25 deliver by certified mail, with return receipt requested, an offer to the property owner to purchase
26 the participating property, which includes a notice that the qualified purchaser may, after 30 days,
27 record a notice of right of first refusal under subsection [~~(4)~~] (3) of this section. A property owner
28 is under no obligation to accept an offer made under this subsection.

29 “[~~(4)~~] (3) At any time after a qualified purchaser has made an offer to purchase the participating
30 property under subsection [~~(3)~~] (2) of this section and no later than two months before the owner
31 may withdraw the property under subsection [~~(5)~~] (4) of this section, a qualified purchaser may re-
32 cord in the real property records of the county, a notice of right of first refusal in a form prepared
33 by the department that:

34 “(a) Includes a legal description of the participating property;

35 “(b) Attaches a copy of the notice delivered with the offer and proof of mailing of the notice as

1 required by subsection [(3)] (2) of this section;

2 “(c) Declares that the department or local government party acknowledging the instrument
3 holds the right of first refusal to purchase the property under ORS 456.263 and that the acknowl-
4 edging party may assign the right of first refusal to a qualified purchaser and that right may be,
5 from time to time, reassigned;

6 “(d) Declares that the right of first refusal shall expire 24 months after the date the property
7 may be withdrawn from publicly supported housing under subsection [(5)] (4) of this section;

8 “(e) Declares that a copy of the recorded notice of right of first refusal must be promptly de-
9 livered to the property owner by the qualified purchaser offering the instrument for recording; and

10 “(f) Is executed and acknowledged by the local government or department in the manner pro-
11 vided for the acknowledgment of deeds.

12 “[5)] (4) The property owner may **not** withdraw the participating property from publicly sup-
13 ported housing and terminate the affordability restrictions [upon] **until** the latest of **the date**:

14 “(a) [24] **Twenty-four** months following the owner’s delivery of all notices required under [sub-
15 section (1) of this section] **ORS 456.260 (2)**;

16 “(b) [30] **Thirty** months following the owner’s delivery of all notices required under ORS 456.260
17 (1); or

18 “(c) [Expiration of] **Upon which** all affordability [restrictions period] **restriction periods** set
19 forth in any contract **expire**.

20 “[6)] (5) At any time after the notice described in [subsection (1) of this section has been
21 provided] **ORS 456.260 (1) has been delivered**, within 30 days of the request from a qualified pur-
22 chaser, the property owner shall make available documents that are relevant to the participating
23 property at the property owner’s principal place of business or at a commercial photocopying facil-
24 ity.

25 “[7)(a)] (6)(a) Notwithstanding the provisions of ORS 192.311 to 192.478 relating to public re-
26 cords, the documents provided by the property owner to a qualified purchaser under subsection
27 [(6)] (5) of this section are confidential and exempt from public inspection except with the written
28 consent of the property owner or as ordered by a court.

29 “(b) Notwithstanding paragraph (a) of this subsection, disclosure may be made to potential
30 funding sources, regulatory agencies or agents or consultants of a qualified purchaser in connection
31 with a transaction between the property owner and a qualified purchaser under this section, subject
32 to appropriate confidentiality agreements.”.

33 On page 6, delete lines 4 through 7 and insert:

34 “**SECTION 6. Section 7 of this 2021 Act is added to and made a part of ORS 456.255 to**
35 **456.265.**

36 “**SECTION 7. (1) In addition to notices given under ORS 456.260 and 456.262, the owner**
37 **of publicly supported housing as described in ORS 456.250 (6)(a)(B) in which the Housing and**
38 **Community Services Department is a party to the contract must provide notice to the ten-**
39 **ants under this section before the owner withdraws the participating property from publicly**
40 **supported housing.**

41 “**(2) The notice required under this section must be in plain language and must include:**

42 “**(a) The expiration date of the department’s affordability restrictions;**

43 “**(b) That the owner intends to withdraw the property from publicly supported housing**
44 **upon the date indicated under paragraph (a) of this subsection;**

45 “**(c) An explanation and any expiration date of any safe harbor provisions which may al-**

1 low the tenant to retain the tenancy after the affordability restriction is terminated;

2 “(d) Information about tenant resources, as may be required by the department by rule;
3 and

4 “(e) Other information required by the department by rule.

5 “(3) The notice required under this section must be delivered no more than 14 months
6 and no fewer than 12 months before the date described in ORS 456.260 (1)(a) by:

7 “(a) First class mail to:

8 “(A) Any tenant residing at the participating property at the tenant’s mailing address;
9 and

10 “(B) The Director of the Housing and Community Services Department; and

11 “(b) Posting the notice in a common area of the property.

12 “**SECTION 8.** ORS 456.264 is amended to read:

13 “456.264. (1) Any person who suffers any ascertainable loss of money or property, real or per-
14 sonal, as a result of the failure of an owner of a participating property to provide notices or other-
15 wise comply with the provisions of ORS 456.260, 456.262 or 456.263 **or section 7 of this 2021 Act**
16 may bring an individual action in an appropriate court to recover actual damages. The court or the
17 jury may award punitive damages, and the court may provide injunctive relief and any other equi-
18 table relief the court considers necessary and proper.

19 “(2) The court may award reasonable attorney fees and costs at trial and on appeal to a pre-
20 vailing plaintiff in an action under this section.

21 “**SECTION 9.** ORS 456.265 is amended to read:

22 “456.265. (1) Except as expressly authorized in ORS 456.260, [or 456.262 and 456.263] **456.262 or**
23 **456.263 or section 7 of this 2021 Act** or as may be provided by contract with the property owner,
24 a local government may not:

25 “(a) Impose any fine, penalty, tax, fee, charge, assessment or other restriction or sanction
26 against a property owner for withdrawing the participating property from publicly supported hous-
27 ing.

28 “(b) Except as an exercise of constitutional or statutory powers of condemnation:

29 “(A) Prevent or restrict a property owner from selling or otherwise disposing of participating
30 property.

31 “(B) Require conveyance of participating property to the local government or to another party.

32 “(C) Impose any fine, penalty, tax, fee, charge, assessment or other restriction or sanction
33 against a property owner for refusing an offer by the Housing and Community Services Department,
34 the department’s designee, a local government or another party to purchase participating property.

35 “(2) Subsection (1) of this section does not prohibit a local government that is certified by a
36 federal agency to carry out an agency responsibility or to exercise agency authority from taking any
37 action within the scope of that responsibility or authority.

38 “**SECTION 10.** **Section 7 of this 2021 Act and the amendments to ORS 456.250, 456.258,**
39 **456.260, 456.262, 456.263, 456.264 and 456.265 by sections 1 to 5, 8 and 9 of this 2021 Act apply**
40 **to participating properties subject to an affordability restriction or contract that will, by its**
41 **terms, terminate on or after 30 months following the effective date of this 2021 Act.”.**
42