

House Bill 2101

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)

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**.

Clarifies that all housing authorities must participate in Housing Choice Landlord Guarantee Program. Changes eligibility for reimbursement under program.

Raises per-tenant limit and eliminates per-landlord limit for reimbursements under Rent Guarantee Program.

A BILL FOR AN ACT

Relating to rental assistance programs; creating new provisions; and amending ORS 456.375, 456.378, 456.390, 456.395, 456.500, 456.502 and 456.608.

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

LANDLORD GUARANTEE PROGRAM

SECTION 1. ORS 456.375 is amended to read:

456.375. As used in ORS 456.375 to 456.390:

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

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

[(3) "Local housing authority" means a housing authority that has entered into a contract with the Secretary of Housing and Urban Development of the United States pursuant to which the housing authority is authorized to make tenant-based assistance payments to landlords within a designated county or area of operation under the Housing Choice Voucher Program.]

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

SECTION 2. ORS 456.378 is amended to read:

456.378. (1) The Housing and Community Services Department shall develop and implement the Housing Choice Landlord Guarantee Program for the purpose of providing financial assistance to landlords to mitigate damages caused by tenants as a result of occupancy under the Housing Choice Voucher Program.

(2) Landlords that are eligible for assistance under the Housing Choice Landlord Guarantee Program must [obtain a judgment against the tenant, following a hearing in which the landlord proves the amount of damages, in either the small claims department of a circuit court or a circuit court for

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 *the county in which the property is located*] **submit an application in the form and format pre-**
 2 **scribed by the department.** Assistance is limited to reimbursement for only those amounts [*in the*
 3 *judgment*] that are related to property damage, unpaid rent or other damages:

- 4 (a) Caused as a result of the tenant’s occupancy under the Housing Choice Voucher Program;
- 5 (b) That exceed normal wear and tear; and
- 6 (c) That are in excess of \$500 but not more than \$5,000 per tenancy.

7 (3) A landlord must submit [*a claim*] **an application** for assistance to the department within one
 8 year [*of obtaining a judgment against a tenant pursuant to subsection (2) of this section*] **following the**
 9 **later of the date that:**

- 10 (a) **The tenancy terminates;**
- 11 (b) **The landlord obtains possession of the dwelling unit; or**
- 12 (c) **Payments from the Housing Choice Voucher Program to the landlord terminate.**

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

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

22 **SECTION 3.** ORS 456.390 is amended to read:

23 456.390. (1) [*Local Housing authorities*] **Each housing authority** shall report annually to the
 24 Housing and Community Services Department regarding information required to be provided to the
 25 Secretary of Housing and Urban Development regarding [*each local*] **the** housing authority’s partic-
 26 ipation in the Housing Choice Voucher Program.

27 (2) [*Local*] Housing authorities shall annually review internal procedures and processes so as to
 28 coordinate the length of the rental and lease terms with market standards for the purpose of
 29 achieving the maximum use and benefit in the best interests of tenants and landlords from tenant-
 30 based assistance payments under the Housing Choice Voucher Program.

31 (3) Consistent with federal law, [*local*] housing authorities shall facilitate participation of land-
 32 lords in the Housing Choice Voucher Program by:

- 33 (a) Ensuring timely inspection of dwelling units and prompt processing of tenant applications
 34 and tenant-based assistance payments to landlords;
- 35 (b) Establishing leases with terms that match the lease length that is standard and customary
 36 for the dwelling units involved;
- 37 (c) Assisting tenants and landlords with service referrals; and
- 38 (d) Establishing a process that allows landlords to provide regular input to [*local*] housing au-
 39 thorities.

40 (4)(a) There is created the Statewide Housing Choice Advisory Committee to be appointed by the
 41 Director of the Housing and Community Services Department. The director shall have discretion to
 42 determine the number of committee members and the duration of membership. The committee mem-
 43 bership must be geographically representative of all regions of this state and shall include an equal
 44 number of representatives for each of the following:

- 45 (A) [*Local*] Housing authorities or their representatives;

1 (B) Landlords of single and multiple dwelling units or their advocates; and

2 (C) Tenants or their advocates.

3 (b) The committee shall:

4 (A) Advise the department with respect to matters of interest and concern regarding the Hous-
5 ing Choice Voucher Program;

6 (B) Discuss and share best practices for maximizing participation by landlords and tenants in
7 the Housing Choice Voucher Program; and

8 (C) Develop strategies and outcome measures for gauging the effectiveness of the Housing
9 Choice Voucher Program.

10 (c) The committee shall prepare and submit a report to the committees of the Legislative As-
11 sembly that have authority over the subject area of housing on the date of the convening of each
12 regular session of the Legislative Assembly regarding participation in and the effectiveness of the
13 Housing Choice Voucher Program in this state.

14
15 **RENT GUARANTEE PROGRAM**

16
17 **SECTION 4.** ORS 456.608 is amended to read:

18 456.608. (1) The Housing and Community Services Department shall develop and implement the
19 Rent Guarantee Program for the purpose of providing incentives and financial assistance to land-
20 lords that rent to low income households by guaranteeing payments to landlords for unpaid rent and
21 for eviction and property damage costs as described in this section. Department administration of
22 the program is subject to Oregon Housing Stability Council policy, rules and standards.

23 (2) A tenant is eligible to participate in the program if the tenant:

24 (a) Resides in a low income household;

25 (b) Experiences barriers to obtaining housing, including but not limited to:

26 (A) Poor credit history or ratings;

27 (B) A criminal history;

28 (C) That the tenant has been a ward, as defined in ORS 419A.004, within the past 10 years and
29 is at least 16 years of age and less than 27 years of age; or

30 (D) A history of housing evictions; and

31 (c) Successfully completes the tenant training and certification process implemented by the de-
32 partment under subsection (3) of this section.

33 (3) As part of the program implemented under this section, the department shall provide training
34 to, and a certification process for, tenants from low income households for the purposes of providing
35 tenants with information on how to achieve and maintain a successful tenancy and providing reli-
36 able accreditation of tenants to landlords that are considering renting to tenants from low income
37 households.

38 (4) A landlord may submit a request for financial assistance to the department in accordance
39 with rules adopted by the council. Financial assistance to landlords under the program is limited
40 as follows:

41 (a) Reimbursement for unpaid rent and payment of eviction and damage costs are limited to
42 circumstances involving rental or lease agreements entered into with tenants determined to be eli-
43 gible under subsection (2) of this section;

44 (b) Financial assistance is limited to reimbursement for unpaid rent and eviction and damage
45 costs incurred during the first 12 months of any single rental or lease agreement;

1 *[(c) Reimbursement for unpaid rent is limited to a maximum of \$2,000 per eligible tenant;]*

2 *[(d)]* (c) Financial assistance paid under the program to a landlord is limited to a maximum of
 3 \$5,000 per *[landlord]* **eligible tenant**; and

4 *[(e)]* (d) Payment of financial assistance is contingent on the landlord's submission of a complete
 5 and accurate reimbursement request, verification of unpaid rent and eviction or damage claims by
 6 the department or program provider described in subsection (6) of this section and cooperation with
 7 the collection of data to measure program performance outcomes as described in subsection (6) of
 8 this section.

9 (5) Before receipt of payments of financial assistance under the program, a landlord must pro-
 10 vide to the department or the program provider described in subsection (6) of this section a report
 11 containing information required by rule adopted by the council. The report must contain, at a min-
 12 imum, the following:

13 (a) Information regarding eligible tenants with *[which]* **whom** the landlord entered into tenancy
 14 agreements including, but not limited to, the length of tenancy and reason for termination of
 15 tenancy, if applicable; and

16 (b) The amounts of unpaid rent and eviction and damage costs not reimbursed by financial as-
 17 sistance received by the landlord under the program.

18 (6)(a) The department may contract with a public or private provider to administer the program
 19 within an individual county or region of this state and to distribute financial assistance to eligible
 20 landlords as provided in this subsection. The department is not subject to the provisions of ORS
 21 chapter 279A or 279B in awarding a contract under the provisions of this subsection. The depart-
 22 ment shall, in consultation with the council, establish criteria for proposals, prepare and publish
 23 requests for proposals, receive proposals and award contracts to eligible providers. Eligible provid-
 24 ers must, at a minimum:

25 (A) Have experience providing tenant readiness education sufficient to provide tenant training
 26 and certification as described in subsection (3) of this section;

27 (B) Have experience placing persons in low income households into permanent housing;

28 (C) Have experience working collaboratively with local landlords and service providers; and

29 (D) Demonstrate the organizational capacity to administer the program, including the ability to
 30 track data and performance measure outcomes and to timely process requests for and payments of
 31 financial assistance.

32 (b) Program providers shall, in accordance with rules adopted by the council:

33 (A) Provide reports regarding the number of landlords and program eligible tenants participating
 34 in the program, demographic information about tenants, identified tenant risk factors and the num-
 35 ber and amount of requests for financial assistance made under the program;

36 (B) Review and verify requests for financial assistance and make payments in accordance with
 37 established department processes for distributing funds; and

38 (C) Collect data to measure the following program performance outcomes:

39 (i) Increased housing stability, as measured by the percentage of total program participants who
 40 reside in and maintain permanent housing for a minimum of 12 months;

41 (ii) Increased landlord participation, as measured by the percentage increase in the number of
 42 landlords participating in the program; and

43 (iii) Successful tenant readiness education, as measured by the percentage of tenants success-
 44 fully completing the tenant training and receiving certification as described in subsection (3) of this
 45 section.

1 (7) Nothing in this section prohibits a landlord from participating in the Housing Choice Land-
 2 lord Guarantee Program under ORS 456.375 to 456.390 or the Housing Choice Voucher Program
 3 under 42 U.S.C. 1437f(o).

4 (8) The department may not pay financial assistance under the Rent Guarantee Program from
 5 any source other than available funds in the Rent Guarantee Program Fund established in ORS
 6 456.609. Amounts due and payable under the program shall not constitute a debt of the state or a
 7 lending of the credit of the state within the meaning of any constitutional or statutory limitation.

8 (9) The department shall submit an annual report to the interim legislative committees of the
 9 Legislative Assembly related to housing no later than September 15th of each year regarding the
 10 implementation and status of the program, the number of participants in the program, amounts of
 11 financial assistance requested and paid and the performance outcomes measured by the program.

12 (10) The council, in consultation with the department, shall adopt rules to implement the pro-
 13 visions of this section.

14
 15 **CONFORMING PROVISIONS**

16
 17 **SECTION 5.** ORS 456.395 is amended to read:

18 456.395. The Housing and Community Services Department and the Oregon Housing Stability
 19 Council shall cooperate with and assist [*local*] housing authorities [*as defined in ORS 456.375*] to
 20 obtain federal approval, renewal of an existing waiver of federal requirements or a new waiver of
 21 federal requirements, as necessary to make the use and distribution of federal rent subsidy and as-
 22 sistance payments under 42 U.S.C. 1437f as efficient and beneficial as possible to increase the supply
 23 of decent, safe, sanitary and affordable housing for persons of low income and very low income in
 24 this state.

25 **SECTION 6.** ORS 456.500 is amended to read:

26 456.500. (1) The Legislative Assembly finds that:

27 (a) There is a significant number of rental properties in this state whose owners have obtained
 28 rural rental housing loans from Rural Development or the Farm Service Agency of the United States
 29 Department of Agriculture under 7 C.F.R. 3560. Many of these rental properties contain rental units
 30 in which very low, low and moderate income families, elderly persons and persons with disabilities
 31 live and receive federal rental assistance.

32 (b) Beginning in 2015, many of the mortgage loans made to the owners of these rental properties
 33 will mature and federal rental assistance to tenants residing on the premises of these rental prop-
 34 erties will no longer be available.

35 (c) Currently, there is no legal mechanism in place requiring the owners of these rental prop-
 36 erties to provide notice of loan maturity to tenants, the Housing and Community Services Depart-
 37 ment, housing authorities as defined in ORS 456.005 and local governments.

38 (d) Requiring notice at least one year before maturity of a loan described in paragraph (a) of this
 39 subsection would provide:

40 (A) Tenants with time to locate alternative housing and rental assistance; and

41 (B) The Housing and Community Services Department, housing authorities and local govern-
 42 ments with time to work with Rural Development or the Farm Service Agency of the United States
 43 Department of Agriculture to develop arrangements that will protect the housing status of existing
 44 tenants.

45 (2) The owner of any rental property that has received a rural rental housing loan from Rural

1 Development or the Farm Service Agency of the United States Department of Agriculture under 7
 2 C.F.R. 3560 shall provide written notice by first class mail with postage prepaid and by posting in
 3 a common area on the rental property notice of all of the following:

4 (a) The date upon which the loan matures;

5 (b) That federal rental assistance will no longer be available after the date of loan maturity with
 6 respect to the rental property that includes the premises on which the tenants reside; and

7 (c) That there may be other program use restrictions and rent controls that expire after the date
 8 of loan maturity.

9 (3) The notice required by subsection (2) of this section must be mailed to:

10 (a) Any tenant residing on the premises of the rental property that is the subject of the loan,
 11 mailed to the street address of the premises on which the tenant resides, on or after the date that
 12 is one year before the date of loan maturity;

13 (b) The Director of the Housing and Community Services Department;

14 (c) The [local] housing authority [as defined in ORS 456.375] that is located in the county or area
 15 of operation in which the rental property is located; and

16 (d) The mayor, planning department or person or entity with a similar function in the local
 17 government in the area in which the rental property is located.

18 (4)(a) Failure to provide the notice required by this section entitles a tenant residing on the
 19 premises of the rental property on the date that is at least one year in advance of the date of loan
 20 maturity to continue residing on the premises of the rental property without any increase in the
 21 tenant's portion of the rent charged for up to one year after the date of loan maturity, or one year
 22 after termination of the tenant's federal rental assistance, program use restrictions or rent controls,
 23 whichever date is later.

24 (b) Providing notice less than one year before the date of loan maturity entitles a tenant resid-
 25 ing on the premises of the rental property on the date that is at least one year before the date of
 26 loan maturity to continue residing on the premises of the rental property without any increase in
 27 the tenant's portion of the rent charged for a period of time that equals the number of days that the
 28 notice was late.

29 (c) If the tenant begins residency at a time that is less than one year before the date of loan
 30 maturity, the tenant must receive the notice required by this section prior to entering into a rental
 31 agreement. Failure to provide the notice required by this paragraph entitles the tenant to continue
 32 residing on the premises of the rental property without any increase in the tenant's portion of the
 33 rent charged for up to one year after the date of loan maturity, or one year after termination of the
 34 tenant's federal rental assistance, program use restrictions or rent controls, whichever date is later.

35 (5) The provisions of subsection (4) of this section are not intended to contravene the owner's
 36 right to terminate a tenant's residency or evict a tenant for good cause.

37 (6) As used in this section, "local government" means cities and counties.

38 **SECTION 7.** ORS 456.502 is amended to read:

39 456.502. (1) The Affordable Housing Land Acquisition Revolving Loan Program is established
 40 within the Housing and Community Services Department. The purpose of the program is to provide
 41 financial assistance to eligible organizations to purchase land for affordable housing development.
 42 The department may contract with a qualifying nonprofit organization to serve in a fiduciary ca-
 43 pacity as program administrator.

44 (2) The department or the program administrator, with the department's approval, may make
 45 loans to eligible organizations to purchase land on which to develop affordable housing and to build

1 facilities intended to provide supportive services to affordable housing residents and low income
2 households in the nearby community.

3 (3) Organizations that are eligible to participate in the program include local governments,
4 [local] housing authorities, nonprofit community or neighborhood-based organizations, federally re-
5 cognized Indian tribes in this state and regional or statewide nonprofit housing assistance organ-
6 izations.

7 (4) Each eligible organization must include in the organization's loan application a proposed af-
8 fordable housing development plan that indicates the number of affordable housing units planned, a
9 description of any other facilities that are being considered for the property and an estimated
10 timeline for completion of the development. The department or the department's program adminis-
11 trator may require additional information from eligible organizations and may consider the efficient
12 use of land, project readiness, organizational capacity and other factors as criteria in making loans.

13 (5) Forty percent of loans made by the program shall go to eligible organizations operating home
14 ownership programs for low income households. If the entire 40 percent cannot be loaned to the
15 types of eligible organizations described in this subsection, the remainder may be loaned to other
16 eligible organizations under subsection (6) of this section.

17 (6) Sixty percent of loans shall be made to eligible organizations not described in subsection (5)
18 of this section.

19 (7) Within five years of receiving a loan, a loan recipient must present the department or the
20 program administrator with an updated development plan, including a proposed development design,
21 committed and anticipated additional financial resources to be dedicated to the development and an
22 estimated development schedule that indicates completion of the development within eight years of
23 receipt of the loan. The updated development plan must be substantially consistent with the devel-
24 opment plan submitted as part of the original loan application required in subsection (4) of this
25 section.

26 (8) Within eight years of receiving a loan under this section, a loan recipient must complete
27 development of affordable housing on the property for which the loan was made and place the af-
28 fordable housing into service.

29 (9) A loan recipient must preserve the affordable housing developed on the property acquired
30 under this section as affordable housing for a minimum of 30 years.

31 (10)(a) If a loan recipient does not place affordable housing into service on a property for which
32 a loan was received under this section within the eight-year period specified in subsection (8) of this
33 section, or if a loan recipient fails to use the property for the intended affordable housing purpose
34 consistent with the loan recipient's original affordable housing development plan, the loan recipient
35 must pay to the department an amount consisting of the principal of the original loan plus com-
36 pounded interest calculated at the current market rate. The department shall develop guidelines for
37 the time period in which this repayment must take place and include the time period in the original
38 loan agreement entered into with the loan recipient. The department may grant a partial or total
39 exemption from this repayment requirement if the department determines that a development is
40 substantially complete or that the property has been substantially used as described in the original
41 affordable housing development plan.

42 (b) As used in this subsection, "current market rate" means the current average market interest
43 rate that is determined at the time any individual loan is closed upon using a widely recognized
44 current market interest rate measurement to be selected for use by the department or by the pro-
45 gram administrator, with the approval of the department. This interest rate must be noted in an

1 attachment to the closing documents for each loan.

2 (11) The department, or the program administrator with the approval of the department, may
3 adopt guidelines and requirements that are necessary to administer the program.

4 (12) Interest rates on loans granted under this section may not exceed one percent.

5 (13) The department, or the program administrator with the approval of the department, must
6 develop performance measures for the program, including at a minimum measures related to:

7 (a) The ability of eligible organizations to access land for affordable housing development;

8 (b) The total number of dwelling units by housing type and the total number of low income
9 households and persons served; and

10 (c) The financial efficiency of the program as demonstrated by certain factors, including the cost
11 per unit developed for affordable housing units in different areas of this state and a measure of the
12 effective use of funds to produce the greatest number of units for low income households.

13 (14) By December 1 of each year, beginning in 2018, the department and the program adminis-
14 trator, if any, shall report to the interim committees of the Legislative Assembly with subject matter
15 jurisdiction for housing regarding the performance measures developed under subsection (13) of this
16 section.

17 (15) For purposes of this section, "low income household" has the meaning given that term in
18 ORS 456.270.

19 (16) The department shall adopt rules to implement and carry out the provisions of this section.
20

21 **UNIT CAPTIONS**

22
23 **SECTION 8. The unit captions used in this 2021 Act are provided only for the convenience**
24 **of the reader and do not become part of the statutory law of this state or express any leg-**
25 **islative intent in the enactment of this 2021 Act.**
26
