Enrolled
Senate Bill 892

Sponsored by COMMITTEE ON HOUSING AND DEVELOPMENT (at the request of Housing and Community Services Department)

CHAPTER .....

AN ACT

Relating to housing; creating new provisions; amending ORS 183.534, 270.100, 279A.025, 279A.050, 317.097, 456.270, 456.548, 456.555, 456.559, 456.571, 456.574, 456.579, 456.608, 456.625, 456.627, 456.710, 456.720, 458.210, 458.225, 458.310, 458.415, 458.485, 458.610 and 458.735; repealing ORS 456.505, 456.576 and 458.377; and declaring an emergency.

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

TRIBAL ACCESS TO HOUSING FUNDS

SECTION 1. ORS 458.210 is amended to read:

458.210. For the purposes of ORS 456.550 and 458.210 to 458.240, a community development corporation is**:**

(1) An organization that:

[*(1)*] **(a)** Is established under the provisions of ORS chapter 65;

[*(2)*] **(b)** Has qualified for tax exempt status under section 501(c)(3) of the Internal Revenue Code;

[*(3)*] **(c)** Has a purpose, stated in the articles of incorporation, to serve low and moderate income people's need for community development and community self-help;

[*(4)*] **(d)** Has a board of directors, of not fewer than five members, that is locally controlled by including 51 percent of the board members from the service area; and

[*(5)*] **(e)** Has a defined geographic service area[.]**; or**

(2) A housing entity or housing authority designated by a tribe, as defined in ORS 182.162, to receive funds and administer housing programs.

SECTION 2. ORS 458.225 is amended to read:

458.225. (1) In carrying out the provisions of ORS 456.550 and 458.210 to 458.240, the Housing and Community Services Department shall give preference to a community development corporation **described in ORS 458.210 (2) or** that:

(a) Has a defined geographic service area outside an entitlement community or county;

(b) Has a defined geographic service area inside an entitlement community or county but does not include more than 50,000 people in the service area;

(c) Has a defined geographic service area that includes five or fewer nonentitlement counties; and

(d) Can demonstrate support from the community.

(2) As used in this section, "entitlement community or county" means any area within the state that is:

(a) A "metropolitan city" as defined in 42 U.S.C. 5302(4) (1995); or

(b) An "urban county" as defined in 42 U.S.C. 5302(6) (1995).

RULEMAKING

SECTION 3. ORS 456.555 is amended to read:

456.555. (1) The Housing and Community Services Department is established.

(2) The department [*shall be under the supervision and control of*] **is supervised and controlled by** a director who is responsible for the performance of the duties imposed upon the department. The Governor shall appoint the Director of the Housing and Community Services Department. The director shall hold office at the pleasure of the Governor. The person appointed as director [*shall*] **must** be a person who, by training and experience, is well qualified to perform the duties of the office.

(3) The director shall receive such salary as may be provided by law, or, if not so provided, as may be fixed by the Governor. In addition to the salary of the director, the director shall, subject to the limitations otherwise provided by law, be reimbursed for all expenses actually and necessarily incurred by the director in the performance of official duties.

(4) The director may establish department divisions including but not limited to divisions for administration, housing programs and community services programs.

[*(5) The Oregon Housing Stability Council shall:*]

[*(a) With the advice of the director, set policy and approve or disapprove rules and standards for housing programs;*]

[*(b) Approve or disapprove loans, grants and other funding award proposals under ORS 456.561;*]

[*(c) Provide policy direction and oversight to the department regarding the department's financial planning and biennial budget proposal prior to its submittal to the Oregon Department of Administrative Services; and*]

[*(d) Carry out the provisions of ORS 456.571.*]

[*(6)*] **(5)** The [*Housing and Community Services*] department [*and the council*] shall consider advice on housing and community service programs from:

(a) Persons who have experienced housing instability;

(b) Tribes;

(c) The Community Action Partnership of Oregon;

(d) Continuums of care, as defined in 24 C.F.R. part 578;

(e) Local governments;

(f) Nonprofit organizations;

(g) Homeless services providers;

(h) Culturally specific organizations;

(i) Housing providers;

(j) Veterans' services organizations; and

(k) Other entities identified by the department by rule.

[*(7)*] **(6)** The director shall report regularly to the **Oregon Housing Stability** Council to keep the council informed on progress made by the department in carrying out the department's responsibilities for housing programs.

[*(8)*] **(7)** The department shall administer federal programs [*with advice from the council*]. Federal funds for housing stabilization must, to the extent consistent with federal law, be allocated statewide in a manner proportionate to a needs-based and geographically based formula.

[*(9)*] **(8)** The department may adopt rules to carry out the programs that the department is charged with administering, including, but not limited to, rules regarding:

(a) Administration and enforcement.

(b) Criteria for the granting of benefits.

(c) The establishment of fees and charges.

(d) The identification of housing programs and community services programs.

(e) The distinguishing of housing programs from community services programs.

(9) When a statute authorizes or requires that the department or the director adopt rules or policies or administer programs, the director may, at any stage in the process, consult with or seek the approval of the council.

(10) [*Subject to the approval of the council,*] The department shall establish by rule one or more threshold property purchase prices above which a housing loan proposed by the department requires council review and approval under ORS 456.561. In establishing or modifying a threshold property purchase price under this subsection, the department shall consider any maximum acquisition cost set forth in the Internal Revenue Code or federal rules and regulations implementing the code.

(11) [*Subject to the approval of the council,*] The department shall establish by rule one or more threshold amounts above which a housing grant or other housing funding award proposal requires council review and approval under ORS 456.561.

SECTION 4. ORS 456.559 is amended to read:

456.559. (1) The Housing and Community Services Department shall:

(a) Maintain current housing data and information concerning available programs, status of funding, programs planned or undertaken which might conflict with, overlap, duplicate or supersede other planned or existing programs and call these to the attention of appropriate state agencies, governmental bodies and public or private housing sponsors.

(b) Maintain current data from local, state and federal sources concerning publicly supported housing as that term is defined in ORS 456.250, the status of existing affordability restrictions as that term is defined in ORS 456.250 and rental assistance contracts at publicly supported housing.

(c) Provide to appropriate state agencies, governmental bodies and public or private housing sponsors such advisory and educational services as will assist them in the development of housing plans and projects.

(d) Subject to the approval of the Oregon Housing Stability Council, make noninterest bearing advances, in accordance with ORS 456.710 and the policies of the department, to qualified nonprofit sponsors for development costs of housing projects until mortgage funds are released to repay the advances as provided in ORS 456.710.

(e) Advise and assist appropriate state agencies, governmental bodies and public or private housing sponsors, cities and counties, in all programs and activities which are designed or might tend to fulfill the purposes of ORS 456.548 to 456.725 and ORS chapter 458.

(f) Encourage and assist in the planning, development, construction, rehabilitation and conservation of dwelling units for persons and families of lower income.

(g) Be the central state department to apply for, receive and distribute, on behalf of appropriate state agencies, governmental bodies and public or private housing sponsors in the state, grants, gifts, contributions, loans, credits or assistance from the federal government or any other source for housing programs except when the donor, grantor, or lender of such funds specifically directs some other agency to administer them. Moneys received under this section shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(h) For the purposes of acquiring moneys, credits or other assistance from any agency or instrumentality of the United States or from any public corporation chartered by the United States, comply with any applicable agreements or restrictions for the receipt of such assistance and become a member of any such association or public corporation chartered by the United States.

(i) Assist individuals, appropriate state agencies, governmental bodies and public or private housing sponsors through a program which provides housing information, planning, educational services and technical assistance.

(j) Comply with the requirements of ORS 443.225 in assisting in the development of any housing for residential care, training or treatment for persons with intellectual or developmental disabilities or mental or emotional disturbances.

(2) Except as otherwise provided in ORS 456.255 to 456.265, 456.625 (7) and 458.480 to 458.490, the department may not itself develop, construct, rehabilitate or conserve housing units; and neither the department nor any housing sponsor, including but not limited to any association, corporation, cooperative housing authority or urban renewal agency organized to provide housing and other facilities under ORS 456.548 to 456.725, may own, acquire, construct, purchase, lease, operate or maintain utility facilities, including facilities for the generation of electricity, for the distribution of gas and electricity, and for the conveyance of telephone and telegraph messages.

(3) In accordance with the provisions of this section and with the advice of the council, the department shall establish statewide priorities for housing programs. State agencies shall coordinate their housing programs with the department. All state agencies intending to apply for federal funds for use in planning, developing or managing housing, or rendering assistance to governmental bodies or sponsors or individuals involved therein shall submit a description of the proposed activity to the department for review not less than 30 days prior to the intended date of submission of the application to the federal agency. The department shall determine whether the proposal would result in a program that would overlap, duplicate or conflict with any other housing program in the state. If the department finds overlapping or duplication or conflict, it shall recommend modifications in the application. The Oregon Department of Administrative Services shall consider these recommendations in making its decision to approve or disapprove the application. The department shall complete its review and forward its recommendations within 15 working days after receipt of the notification. Failure of the department to complete the review within that time shall constitute approval of the application by the department.

(4) The Director of the Housing and Community Services Department may participate in discussions and deliberations of the council. The director may suggest policies [*and rules*] to the council, including those necessary to stimulate and increase the supply of housing for persons and families of lower income.

SECTION 5. ORS 456.571 is amended to read:

456.571. (1) The Oregon Housing Stability Council shall, with the advice of the Director of the Housing and Community Services Department, develop policies to:

(a) Aid in stimulating and increasing the supply of housing for persons and families of lower income;

(b) Address geographic and racial disparities; and

(c) Ensure funds distributed by the Housing and Community Services Department contribute to addressing other state priorities.

(2) The council shall make special effort to respond to both private and public actions that may raise the cost of the housing supply in the open market, as the open market is the source of housing for the preponderance of lower income households.

(3) The council is responsible for studying and commenting upon, and advising the department, Governor, Legislative Assembly, other state agencies and local governments concerning, local, state and federal legislation or rules that affect the cost and supply of housing, both before and after the legislation and rules are enacted. For purposes of this subsection, "legislation or rules that affect the cost and supply of housing" includes but is not limited to legislation or rules that would:

(a) Provide financing for the construction or rehabilitation of housing;

(b) Subsidize new or existing housing costs for lower income households by income support, tax credit, or support service methods;

(c) Regulate the division of land;

(d) Regulate the use of land;

(e) Regulate building construction standards;

(f) Regulate fees and charges for inspection services, permits, or professional services related to housing;

(g) Encourage alternatives that increase housing choices;

(h) Create or avert overlapping jurisdictional functions and the concomitant increased costs that are reflected in housing prices;

(i) Create or avoid conflicting state and federal regulations that deprive lower income households of assistance; and

(j) Help or hinder compliance with the housing goals established by the Land Conservation and Development Commission under ORS 197.240.

(4) The council, with the approval of the Governor, may initiate legal proceedings in the name of the council to further the council's purposes under this section.

(5) The council shall exercise the responsibilities and powers of the council in a manner that expedites the acquisition, construction, improvement or rehabilitation of housing.

(6) With respect to the Community Development Incentive Project Fund established under ORS 458.720, the council shall develop program guidelines, including specific project criteria and financing mechanisms, review applications seeking funding from the fund and make recommendations for funding approval to the director and review proposals for cooperative agreements or joint projects between the department and other state agencies to facilitate the goals of the fund.

(7) The council[*, in conjunction with the Community Action Partnership of Oregon,*] shall advise and assist the department**, at the director's request,** with rules, policies and programs [*regarding low income home energy assistance under ORS 458.515.*] **under ORS 456.555 (9). In providing advice and assistance, the council shall consider advice on housing and community service programs from entities listed under ORS 456.555 (5) and other entities identified by the department by rule.**

(8) The council shall approve or disapprove loans, grants and other funding award proposals under ORS 456.561.

[*(8)*] **(9)** The council, in conjunction with the Community Action Partnership of Oregon, shall ensure the coordination of state agency homelessness relief efforts.

SECTION 6. ORS 456.608 is amended to read:

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

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

(a) Resides in a low income household;

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

(A) Poor credit history or ratings;

(B) A criminal history;

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

(D) A history of housing evictions; and

(c) Successfully completes the tenant training and certification process implemented by the department under subsection (3) of this section.

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

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

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

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

(c) Financial assistance paid under the program to a landlord is limited to a maximum of $5,000 per eligible request; and

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

(5) Before receipt of payments of financial assistance under the program, a landlord must provide to the department or the program provider described in subsection (6) of this section a report containing information required by rule [*adopted by the council*]. The report must contain, at a minimum, the following:

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

(b) The amounts of unpaid rent and eviction and damage costs not reimbursed by financial assistance received by the landlord under the program.

(6)(a) The department may contract with a public or private provider to administer the program within an individual county or region of this state and to distribute financial assistance to eligible landlords as provided in this subsection. The department is not subject to the provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of this subsection. The department shall, in consultation with the **Oregon Housing Stability** Council, establish criteria for proposals, prepare and publish requests for proposals, receive proposals and award contracts to eligible providers. Eligible providers must, at a minimum:

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

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

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

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

(b) Program providers shall, in accordance with rules adopted by the [*council*] **department**:

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

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

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

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

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

(iii) Successful tenant readiness education, as measured by the percentage of tenants successfully completing the tenant training and receiving certification as described in subsection (3) of this section.

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

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

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

(10) [*The council, in consultation with*] The department[,] shall adopt rules to implement the provisions of this section.

SECTION 7. ORS 458.310 is amended to read:

458.310. (1) The [*Oregon Housing Stability Council*] **Housing and Community Services Department** shall adopt rules to develop and administer a housing revitalization program for low and moderate income housing.

(2) Applicants for revitalization program funds shall be:

(a) A unit of local government;

(b) A housing authority;

(c) A nonprofit corporation; or

(d) An applicant eligible under paragraph (a), (b) or (c) of this subsection who contracts with another entity, including a private for-profit corporation.

(3) Housing revitalization projects shall bring into use vacant and abandoned property or rehabilitate substandard property, or both. Eligible project activities include, but are not limited to:

(a) Purchase of property;

(b) Rehabilitation of housing units;

(c) New construction to replace units for which rehabilitation is infeasible;

(d) Mortgage interest subsidies or reduction of principal loan amounts; or

(e) Other activities that have the effect of making properties available to and occupied by persons of lower income, such as loan guarantees.

(4) Projects funded by the housing revitalization program shall be rental or owner-occupied single or multifamily housing.

(5) The housing rehabilitation program shall create affordable housing in which rent levels are no higher than 30 percent of 80 percent of median income levels.

(6) Priority shall be given to projects applied for under subsections (1) to (5) of this section that provide opportunities for low and moderate income persons to own their housing units.

(7) Priority among rental housing projects shall be given to projects applied for under subsections (1) to (5) of this section that:

(a) Have rent levels no higher than 30 percent of 50 percent of the median income level, or less;

(b) Are owned and operated by a nonprofit or a governmental unit; and

(c) Demonstrate a coordinated local effort to integrate housing, job placement and social services.

(8) In implementing this section and ORS 458.305, the [*council*] **department** shall work to ensure a reasonable geographic distribution of funds among different regions of the state and shall place special emphasis on ensuring that funds are available to projects in rural areas.

SECTION 8. ORS 458.480 to 458.490 are added to and made a part of ORS chapter 458.

SECTION 9. ORS 458.485 is amended to read:

458.485. (1) The Housing and Community Services Department shall, [*with the advice and consent of*] **after consultation with** the Oregon Housing Stability Council, develop and implement the Local Innovation and Fast Track Housing Program for the purpose of expanding the state's supply of affordable housing for low income households.

(2) The department may use funds available pursuant to Article XI-Q of the Oregon Constitution and deposited in the Local Innovation and Fast Track Housing Program Fund established under ORS 458.490 to:

(a) Acquire, construct, remodel, repair, equip or furnish qualified property that is or will be owned or operated by the State of Oregon for the purpose of providing affordable housing in this state for low income households; and

(b) Pay development costs to develop qualified property that may be considered part of the cost of a capital asset under generally accepted accounting principles.

(3) Interests in real property acquired by the State of Oregon or the department under this section are limited to the following:

(a) A fee simple interest in land or improvements;

(b) A leased fee interest, meaning an ownership interest with the rights of use and occupancy conveyed by lease to others;

(c) A tenancy in common for which the state's or department's interest in the property is proportionate to the contribution of the state or department to the property's purchase price;

(d) A fee simple interest in a condominium; or

(e) An easement, right of way, license or similar interest functionally related to and necessary for the use of qualified property acquired by the state or department.

(4) In funding the acquisition, construction, remodeling, repairing, equipping or furnishing of qualified property under the program, the department[*, with the advice and consent of the council,*] may:

(a) Adopt criteria that:

(A) Provide the greatest number of affordable housing units for the amount of funding provided;

(B) Ensure the longest possible use of the qualified property as affordable housing units;

(C) Optimize the function and duration of the affordable housing project; and

(D) Take into account the means to reduce the cost of the affordable housing project while considering factors such as the quality of construction, durability, location and local design requirements;

(b) Create restrictive covenants and other encumbrances or lien interests, create entities, cooperate or participate with persons or entities and contract with persons and entities; and

(c) Operate qualified property.

(5) Moneys made available through the program must be distributed or used statewide and concentrated in areas of this state with the greatest need for affordable housing, as determined by the department with the advice and consent of the council.

(6) For purposes of implementing the program, the council shall develop strategies to:

(a) Reach historically underserved communities, including communities of color and rural communities;

(b) Reduce the cost of acquiring, constructing, remodeling, repairing, equipping or furnishing qualified property that is owned or operated by the state for the purpose of providing affordable housing; and

(c) Involve Department of Human Services child welfare and self-sufficiency programs.

(7) The Director of the Housing and Community Services Department shall report regularly to the council regarding the status and progress of the program and of the Housing and Community Services Department's responsibilities for implementing and administering the program.

(8) The department[*, with the advice and consent of the council,*] shall adopt rules to implement the provisions of this section, including but not limited to prescribing requirements for acquiring, constructing, remodeling, repairing, equipping or furnishing qualified property that is owned or operated by the state for the purpose of providing affordable housing under the program.

SECTION 10. ORS 458.610 is amended to read:

458.610. For purposes of ORS 458.600 to 458.665:

(1) "Area median income" means the area median income, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the [*Oregon Housing Stability Council*] **Housing and Community Services Department** 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) "Moderate income" means income that is more than 80 percent and not more than 120 percent of the area median income.

(6) "Organization" means a:

(a) Nonprofit corporation established under ORS chapter 65;

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

(c) Local government as defined in ORS 197.015; or

(d) Federally recognized Indian tribe that owns land in this state.

(7) "Persons of color" has the meaning given that term by rule by the department.

(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 by the department by rule.

SECTION 11. ORS 458.735 is amended to read:

458.735. The Housing and Community Services Department shall:

(1) Administer the Community Development Incentive Project Fund in accordance with rules adopted by the department. [*Notwithstanding ORS 456.555, department administration of the fund is not subject to Oregon Housing Stability Council policy, rules or standards.*]

(2) Verify documentation and approve or disapprove funding recommended by the **Oregon Housing Stability** Council under ORS 458.715.

(3) Seek to leverage local, federal and private financial resources for use in conjunction with fund expenditures.

(4) Emphasize use of the fund to fill funding gaps in projects identified by the council that are designed to achieve the objectives of the fund.

(5) If making a fund expenditure as a loan, establish lending criteria that allow the fund to create quality development patterns and produce a sound loan portfolio. In establishing the criteria, the department shall permit the assumption of an appropriate level of risk, maintain a reserve for losses and provide for the periodic monitoring of reserve adequacy. Loan repayments may be used by the department in any financially prudent manner consistent with fund goals.

SECTION 12. ORS 183.534 is amended to read:

183.534. (1) A housing cost impact statement is an estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel. The [*Oregon Housing Stability Council*] **Housing and Community Services Department** shall adopt rules prescribing the form to be used when preparing the estimate and other such rules necessary to the implementation of this section and ORS 183.530 and 183.538.

(2) A housing cost impact statement:

(a) For an agency listed in ORS 183.530 shall be incorporated in the:

(A) Fiscal impact statement required by ORS 183.335 (2)(b)(E) for permanent rule adoption; or

(B) Statements required by ORS 183.335 (5) for temporary rule adoption.

(b) Shall not be required for the adoption of any procedural rule by an agency listed in ORS 183.530.

PUBLIC CONTRACTING CODE

SECTION 13. ORS 279A.025 is amended to read:

279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(2) The Public Contracting Code does not apply to:

(a) Contracts between a contracting agency and:

(A) Another contracting agency;
(B) The Oregon Health and Science University;
(C) A public university listed in ORS 352.002;
(D) The Oregon State Bar;
(E) A governmental body of another state;
(F) The federal government;
(G) An American Indian tribe or an agency of an American Indian tribe;
(H) A nation, or a governmental body in a nation, other than the United States; or
(I) An intergovernmental entity formed between or among:
(i) Governmental bodies of this or another state;
(ii) The federal government;
(iii) An American Indian tribe or an agency of an American Indian tribe;
(iv) A nation other than the United States; or
(v) A governmental body in a nation other than the United States;

(b) Agreements authorized by ORS chapter 190 or by a statute, charter provision, ordinance or other authority for establishing agreements between or among governmental bodies or agencies or tribal governing bodies or agencies;

(c) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145 for purposes of source selection;

(d) Grants;

(e) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a public body is or may become interested;

(f) Acquisitions or disposals of real property or interest in real property;

(g) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;

(h) Contracts for the procurement or distribution of textbooks;

(i) Procurements by a contracting agency from an Oregon Corrections Enterprises program;

(j) The procurement, transportation, sale or distribution of distilled liquor, as defined in ORS 471.001, or the appointment of agents under ORS 471.230 or 471.750 by the Oregon Liquor and Cannabis Commission;

(k) Contracts entered into under ORS chapter 180 between the Attorney General and private counsel or special legal assistants;

(L) Contracts for the sale of timber from lands that the State Board of Forestry, the State Forestry Department, the State Parks and Recreation Commission or the State Parks and Recreation Department owns or manages;

(m) Contracts for activities necessary or convenient for the sale of timber under paragraph (L) of this subsection, either separately from or in conjunction with contracts for the sale of timber, including but not limited to activities such as timber harvesting and sorting, transporting, gravel pit development or operation, and road construction, maintenance or improvement;

(n) Contracts for forest protection or forest related activities, as described in ORS 477.406, by the State Forester or the State Board of Forestry;

(o) Contracts that the Housing and Community Services Department enters into in exercising the department's duties prescribed in ORS chapters 456 and 458, [*except that the department's public contracting for goods and services is subject to ORS chapter 279B*] **or procurements described in ORS 456.625 (19)**;

(p) Contracts that the State Treasurer enters into in exercising the powers of that office prescribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A, 287A, 289, 293, 294 and 295, including but not limited to investment contracts and agreements, banking services, clearing house services and collateralization agreements, bond documents, certificates of participation and other debt repayment agreements, and any associated contracts, agreements and documents, regardless of whether the obligations that the contracts, agreements or documents establish are general, spe-

cial or limited, except that the State Treasurer's public contracting for goods and services is subject to ORS chapter 279B;

(q) Contracts, agreements or other documents entered into, issued or established in connection with:

(A) The issuance of obligations, as defined in ORS 286A.100 and 287A.310, of a public body;

(B) Program loans and similar extensions or advances of funds, aid or assistance that a public body makes to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or

(C) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085;

(r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565;

(s) Contracts for employee benefit plans as provided in ORS 243.860 to 243.886; or

(t) Any other public contracting of a public body specifically exempted from the code by another provision of law.

(3) The Public Contracting Code does not apply to the contracting activities of:

(a) The Oregon State Lottery Commission;

(b) The legislative department;

(c) The judicial department;

(d) Semi-independent state agencies listed in ORS 182.454, except as provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

(e) Oregon Corrections Enterprises;

(f) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to 279A.290;

(g) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

(h) The Oregon 529 Savings Network and the Oregon 529 Savings Board;

(i) The Oregon Innovation Council;

(j) The Oregon Utility Notification Center; or

(k) Any other public body specifically exempted from the code by another provision of law.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

SECTION 14. ORS 279A.050 is amended to read:

279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting agency shall exercise all of the contracting agency's procurement authority in accordance with the provisions of the Public Contracting Code.

(b) If a contracting agency has authority under this section to carry out functions described in this section, or has authority to make procurements under a provision of law other than the Public Contracting Code, the contracting agency need not exercise the contracting agency's authority in accordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the contract or contracting agency.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection and the Public Contracting Code, for state agencies the Director of the Oregon Department of Administrative Services has all the authority available to carry out the provisions of the Public Contracting Code.

(b) Except as otherwise provided in the Public Contracting Code, for state agencies the director may delegate to the State Chief Information Officer the authority to procure or supervise the procurement of all goods, services and personal services related to information technology and telecommunications for state contracting agencies. This paragraph does not apply to contracts under which the contractor delivers to the state agency information technology products or services incidentally in performing a personal services contract described in ORS chapter 279C or a construction contract described in ORS chapter 279C.

(3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation has all the authority available to:

(a) Procure or supervise the procurement of all services and personal services to construct, acquire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

(b) Procure or supervise the procurement of all goods, services, public improvements and personal services that relate to operating, maintaining or constructing highways, bridges and other transportation facilities that are subject to the authority of the Department of Transportation; and

(c) Establish standards for, prescribe forms for and conduct the prequalification of prospective bidders on public improvement contracts that relate to operating, maintaining or constructing highways, bridges and other transportation facilities that are subject to the authority of the Department of Transportation.

(4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all the authority to procure or supervise the procurement of goods, services and personal services related to programs under the authority of the Secretary of State.

(5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the authority to procure or supervise the procurement of goods, services and personal services related to programs under the authority of the State Treasurer.

(6) The state agencies listed in this subsection have all the authority to do the following in accordance with the Public Contracting Code:

(a) The Department of Human Services to procure or supervise the procurement of goods, services and personal services under ORS 179.040 for the department's institutions and the procurement of goods, services and personal services for constructing, demolishing, exchanging, maintaining, operating and equipping housing for the purpose of providing care to individuals with intellectual disabilities or other developmental disabilities, subject to applicable provisions of ORS 427.335;

(b) The Oregon Health Authority to procure or supervise the procurement of goods, services and personal services under ORS 179.040 and construction materials, equipment and supplies for the authority's institutions and the procurement of goods, services, personal services, construction materials, equipment and supplies for constructing, demolishing, exchanging, maintaining, operating and equipping housing for individuals with chronic mental illness, subject to applicable provisions of ORS 426.504;

(c) The State Department of Fish and Wildlife to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the State Department of Fish and Wildlife;

(d) The State Parks and Recreation Department to procure or supervise the procurement of all goods, services, public improvements and personal services related to state parks;

(e) The Oregon Department of Aviation to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon Department of Aviation;

(f) The Oregon Business Development Department to procure or supervise the procurement of all goods, services, personal services and public improvements related to its foreign trade offices operating outside the state;

(g) The Housing and Community Services Department to procure or supervise the procurement of goods, services and personal services [*as provided in ORS 279A.025 (2)(o)*] **that are unrelated to the department's duties prescribed in ORS chapters 456 and 458, and not otherwise provided for by ORS 456.625 (19)**;

(h) The Department of Corrections to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the Department of Corrections;

(i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120, 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, services and personal services under ORS 179.040 for its institutions;

(j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate broker and principal real estate broker services related to programs under the department's authority;

(k) The Oregon Military Department to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon Military Department;

(L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085 and 329.485 and the federal Every Student Succeeds Act (P.L. 114-95, 129 Stat. 1802), to procure or supervise the procurement of goods, services, personal services and information technology related to student assessment; and

(m) Any state agency to conduct a procurement when the agency is specifically authorized by any provision of law other than the Public Contracting Code to enter into a contract.

(7)(a) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department of Administrative Services has exclusive authority, unless the director delegates the authority, to procure or supervise the procurement of all price agreements on behalf of the state agencies identified in subsection (6) of this section under which more than one state agency may order goods, services or personal services.

(b) The director may delegate to the State Chief Information Officer the exclusive authority to procure or supervise the procurement of all price agreements related to information technology and telecommunications on behalf of the state agencies identified in subsection (6) of this section. Notwithstanding any authority that a state agency may have under subsection (3) or (6) of this section, the state agency may not establish a price agreement or enter into a contract for goods, services or personal services without the approval of the director or the State Chief Information Officer if the director or the State Chief Information Officer has established a price agreement for the goods, services or personal services.

(c) The State Chief Information Officer may review any solicitation document for procuring information technology or telecommunications that a state agency intends to issue before the state agency issues the solicitation document and may require the state agency to name the State Chief Information Officer as a third-party beneficiary with full authority to enforce the terms and conditions of any public contract for information technology or telecommunications. The State Chief Information Officer must approve a state agency's procurement for information technology or telecommunications if the procurement has an anticipated contract price of $1 million or more. The State Chief Information Officer may require the state agency to name the State Chief Information Officer as the contracting party on behalf of the State of Oregon in a procurement for information technology or telecommunications that has an anticipated contract price of $1 million or more.

SECTION 15. ORS 279A.050, as amended by section 17, chapter 631, Oregon Laws 2021, is amended to read:

279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting agency shall exercise all of the contracting agency's procurement authority in accordance with the provisions of the Public Contracting Code.

(b) If a contracting agency has authority under this section to carry out functions described in this section, or has authority to make procurements under a provision of law other than the Public Contracting Code, the contracting agency need not exercise the contracting agency's authority in accordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the contract or contracting agency.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection and the Public Contracting Code, for state agencies the Director of the Oregon Department of Administrative Services has all the authority available to carry out the provisions of the Public Contracting Code.

(b) Except as otherwise provided in the Public Contracting Code, for state agencies the director may delegate to the State Chief Information Officer the authority to procure or supervise the procurement of all goods, services and personal services related to information technology and telecommunications for state contracting agencies. This paragraph does not apply to contracts under which the contractor delivers to the state agency information technology products or services incidentally in performing a personal services contract described in ORS chapter 279C or a construction contract described in ORS chapter 279C.

(3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation has all the authority available to:

(a) Procure or supervise the procurement of all services and personal services to construct, acquire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

(b) Procure or supervise the procurement of all goods, services, public improvements and personal services that relate to operating, maintaining or constructing highways, bridges and other transportation facilities that are subject to the authority of the Department of Transportation; and

(c) Establish standards for, prescribe forms for and conduct the prequalification of prospective bidders on public improvement contracts that relate to operating, maintaining or constructing highways, bridges and other transportation facilities that are subject to the authority of the Department of Transportation.

(4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all the authority to procure or supervise the procurement of goods, services and personal services related to programs under the authority of the Secretary of State.

(5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the authority to procure or supervise the procurement of goods, services and personal services related to programs under the authority of the State Treasurer.

(6) The state agencies listed in this subsection have all the authority to do the following in accordance with the Public Contracting Code:

(a) The Department of Human Services to procure or supervise the procurement of goods, services and personal services under ORS 179.040 for the department's institutions and the procurement of goods, services and personal services for constructing, demolishing, exchanging, maintaining, operating and equipping housing for the purpose of providing care to individuals with intellectual disabilities or other developmental disabilities, subject to applicable provisions of ORS 427.335;

(b) The Oregon Health Authority to procure or supervise the procurement of goods, services and personal services under ORS 179.040 and construction materials, equipment and supplies for the authority's institutions and the procurement of goods, services, personal services, construction materials, equipment and supplies for constructing, demolishing, exchanging, maintaining, operating and equipping housing for individuals with chronic mental illness, subject to applicable provisions of ORS 426.504;

(c) The State Department of Fish and Wildlife to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the State Department of Fish and Wildlife;

(d) The State Parks and Recreation Department to procure or supervise the procurement of all goods, services, public improvements and personal services related to state parks;

(e) The Oregon Department of Aviation to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon Department of Aviation;

(f) The Oregon Business Development Department to procure or supervise the procurement of all goods, services, personal services and public improvements related to its foreign trade offices operating outside the state;

(g) The Housing and Community Services Department to procure or supervise the procurement of goods, services and personal services [*as provided in ORS 279A.025 (2)(o)*] **that are unrelated to the department's duties prescribed in ORS chapters 456 and 458, and not otherwise provided for by ORS 456.625 (19)**;

(h) The Department of Corrections to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the Department of Corrections;

(i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120, 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, services and personal services under ORS 179.040 for its institutions;

(j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate broker and principal real estate broker services related to programs under the department's authority;

(k) The Oregon Military Department to procure or supervise the procurement of construction materials, equipment, supplies, services and personal services for public improvements, public works or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon Military Department;

(L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085 and 329.485 and the federal Every Student Succeeds Act (P.L. 114-95, 129 Stat. 1802), to procure or supervise the procurement of goods, services, personal services and information technology related to student assessment;

(m) The Department of Early Learning and Care to procure or supervise the procurement of goods, services, personal services and information technology related to early childhood; and

(n) Any state agency to conduct a procurement when the agency is specifically authorized by any provision of law other than the Public Contracting Code to enter into a contract.

(7)(a) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department of Administrative Services has exclusive authority, unless the director delegates the authority, to procure or supervise the procurement of all price agreements on behalf of the state agencies identified in subsection (6) of this section under which more than one state agency may order goods, services or personal services.

(b) The director may delegate to the State Chief Information Officer the exclusive authority to procure or supervise the procurement of all price agreements related to information technology and telecommunications on behalf of the state agencies identified in subsection (6) of this section. Notwithstanding any authority that a state agency may have under subsection (3) or (6) of this section, the state agency may not establish a price agreement or enter into a contract for goods, services or personal services without the approval of the director or the State Chief Information Officer if the director or the State Chief Information Officer has established a price agreement for the goods, services or personal services.

(c) The State Chief Information Officer may review any solicitation document for procuring information technology or telecommunications that a state agency intends to issue before the state agency issues the solicitation document and may require the state agency to name the State Chief Information Officer as a third-party beneficiary with full authority to enforce the terms and conditions of any public contract for information technology or telecommunications. The State Chief Information Officer must approve a state agency's procurement for information technology or telecommunications if the procurement has an anticipated contract price of $1 million or more. The State Chief Information Officer may require the state agency to name the State Chief Information Officer as the contracting party on behalf of the State of Oregon in a procurement for information technology or telecommunications that has an anticipated contract price of $1 million or more.

SECTION 16. ORS 456.625 is amended to read:

456.625. The Housing and Community Services Department may:

(1) Undertake and carry out studies and analyses of housing needs within the state and ways of meeting such needs and make the results of such studies and analyses available to the public, qualified housing sponsors and the private housing sector.

(2) Prepare proposals on measures it considers necessary to address administration, housing programs or community services programs.

(3) With the approval of the Oregon Housing Stability Council, assess fees, charges or interest in connection with housing programs.

(4) Encourage community organizations to assist in initiating housing projects for persons and families of lower income.

(5) Encourage the salvage of usable housing scheduled for demolition or dislocation because of highway, school, urban renewal or other public projects by seeking authority for the public agencies involved in such programs to use the funds provided for the demolition or relocation of such buildings to enable qualified housing sponsors to relocate and rehabilitate such buildings for use by persons and families of lower income.

(6) Encourage research and demonstration projects to develop techniques and methods for increasing the supply of adequate, decent, safe and sanitary housing for persons and families of lower income.

(7) Make or participate in the making of residential loans to qualified individuals or housing sponsors to provide for the acquisition, construction, improvement, rehabilitation or permanent financing of residential housing or housing development; undertake commitments to make residential loans; purchase and sell residential loans at public or private sale; modify or alter such mortgages or loans; foreclose on any such mortgage or security interest or commence any action to protect or enforce any right conferred upon the department by any law, mortgage, security, agreement, contract or other agreement and to bid for and purchase property that is subject to such mortgage or security interest at any foreclosure or other sale; acquire or take possession of any such property and complete, administer, conserve, improve and otherwise use the property to accomplish the department's purposes, pay the principal and interest on any obligations incurred in connection with such property and dispose of such property in such manner as the department determines necessary to protect its interests under ORS 456.515 to 456.725 and ORS chapter 458.

(8) Unless specifically exempted by the State Treasurer, deposit with the State Treasurer any funds held in reserve or sinking funds under ORS 456.515 to 456.725 and ORS chapter 458 and any other moneys not required for immediate use or disbursement by the department, subject to the provisions of any agreement with holders of bonds entered into prior to October 15, 1983.

(9) Advise and assist in the creation of any nonprofit housing corporation, consumer housing cooperative or limited dividend housing sponsor and give approval of the articles of incorporation and bylaws of any such organization in carrying out ORS 456.515 to 456.725.

(10) Cooperate with and exchange services, personnel and information with any federal, state or local governmental agency.

(11) With the approval of the State Treasurer, contract for the services of and consultation with trustees, investment and financial advisors, paying agents, remarketing agents and other professional persons or organizations in carrying out ORS 456.515 to 456.725 and ORS chapter 458.

(12) Contract for, act on or perform any other duties that the department considers necessary or appropriate to carry out housing programs and community services programs, including but not limited to contracting to provide compliance monitoring or other administrative functions with respect to housing developments and affordable housing, whether or not the housing developments or affordable housing receives department funding and whether or not the housing developments or affordable housing is located within this state. For purposes of this subsection, "affordable housing" has the meaning given that term in ORS 456.055.

(13) Purchase, service, sell and make commitments to purchase, service and sell residential loans to the extent permitted by ORS 456.635 and 456.640 (1) to (3).

(14) Initiate or assist appropriate state agencies, governmental bodies and public or private housing sponsors in the development, construction, acquisition, ownership, leasing, rehabilitation or

management of housing to carry out the purposes of ORS 456.515 to 456.725 and ORS chapter 458 where such housing is not otherwise affordable or available in the area.

(15) Execute and record written instruments that contain terms, including but not limited to restrictive covenants or equitable servitudes, pertaining to the use and enjoyment of housing projects. Notwithstanding any other provision of law, the executed instruments shall constitute and create restrictive covenants affecting and running with the property according to the terms of the instruments when recorded in the records of the county where the property is located. County clerks shall accept the instruments for recording when presented by or on behalf of the department.

(16) Subject to the provisions of any agreement then existing with bondholders, make available funds by contract, grant, loan or otherwise, including loan guarantees, insurance or other financial leveraging techniques, from moneys made available by the department to carry out the purposes of ORS 456.515 to 456.725, if such moneys are not needed for the operations of the department or otherwise determined by the Director of the Housing and Community Services Department to be a necessary or prudent reserve.

(17) With the approval of the Oregon Housing Stability Council, award grants to private or public entities to support or develop programs that build on successful strategies that help individuals obtain and retain housing, including through:

(a) Tenant education services for low-income tenants, including Rent Guarantee Program training under ORS 456.608 (3);

(b) Fair housing training for tenants and landlords;

(c) Technological innovations that help low-income individuals find and access available rental housing; and

(d) Other education, services or resources for low-income tenants and prospective tenants and for landlords who serve low-income tenants.

(18) Procure and supervise the procurement of goods, services and personal services that are acquired in connection with the exercise of the department's duties prescribed in this chapter and ORS chapter 458.

(19) For goods, services and personal services that are unrelated to the duties prescribed in this chapter and ORS chapter 458, subject to any rule that may be adopted by the department for the administration of such procurements:

(a) Procure and supervise the procurement of information technology products and systems and related goods, services and personal services; and

(b) Conduct sole-source procurements as provided under ORS 279B.075, and special procurements as provided under ORS 279B.085, except that the Director of the Housing and Community Services Department may take any action that the Director of the Oregon Department of Administrative Services is authorized to take under ORS 279B.075 and 279B.085.

DOWN PAYMENT ASSISTANCE

SECTION 17. ORS 456.627 is amended to read:

456.627. Notwithstanding the provisions of ORS 456.625 (7) **and except for loans made solely to provide assistance with down payments or closing costs**, the Housing and Community Services Department [*shall*] **may** not make any single-family residential loan directly to any individual unless the Legislative Assembly or Emergency Board finds that private lending institutions are unwilling or unable to participate in the department's single-family residential loan programs or portions of those programs under ORS 456.548 to 456.725.

SECTION 18. 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)*] **(5)** "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)*] **(6)** "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)*] **(7)** "Housing Finance Fund" means the Housing Finance Fund established in ORS 456.720 (1).

[*(9)*] **(8)** "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)*] **(9)** "Limited dividend housing sponsor" means a corporation, trust, partnership, association or other entity, or an individual that is a mortgagor.

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

[*(12)*] **(11)** "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)*] **(12)** "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)*] **(13)** "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*] **Housing and Community Services Department** based [*upon*] **on** 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)*] **(14)** "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)*] **(15)** "Qualified housing sponsor" means[*, subject to the approval of*] **the following entities if approved by** 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;

(e) A housing authority;

(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)*] **(16)(a)** "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.

(b) "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.

(c) 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)*] **(17)** "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.

(d) A loan, secured by such lien as may be approved by the department, made for the acquisition of a residential structure and made solely to provide down payment or closing cost assistance to allow low and moderate income households to qualify for a first position purchase loan on the structure.

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

FUNDS AND ACCOUNTS

SECTION 19. ORS 456.574 is amended to read:

456.574. (1) There is created in the General Fund of the State Treasury the Housing and Community Services Department [*Revolving Account*] **Fund**. All moneys deposited in the [*account*] **fund** are continuously appropriated for the purposes of carrying out the programs which the Housing and Community Services Department is charged with administering subject to limitations otherwise prescribed by law.

(2) The [*Housing and Community Services*] department may transfer to the [*Housing and Community Services Department Revolving Account*] **fund** amounts not to exceed $250,000 from funds available to the department. [*Such funds hereby*] **Moneys in the fund** are continuously appropriated [*for*] **to the department to**:

(a) [*The making of*] **Make** advances under ORS 456.559 (1)(d) or 456.710; and

(b) [*The use by the department in the payment of*] **Pay** expenses incurred by the department in carrying out ORS 456.548 to 456.725; however, any such funds expended by the department under this paragraph [*shall*] **must** be repaid by the department into the [*revolving account*] **fund** from the fees and charges collected under ORS 456.625 (3) and from any other moneys available for such repayment in accordance with ORS 456.548 to 456.725.

SECTION 20. ORS 456.710 is amended to read:

456.710. (1) The Housing and Community Services Department may use moneys in the [*revolving account*] **Housing and Community Services Department Fund** to make noninterest-bearing advances to qualified nonprofit housing sponsors or interest-bearing advances to other qualified housing sponsors for use in payment by such sponsors of the development costs of proposed housing units or projects. The department may not make any advance under this subsection unless the department may reasonably anticipate that a residential, manufactured dwelling, manufactured dwelling park or manufactured dwelling park nonprofit cooperative loan may be obtained by the qualified housing sponsor for the permanent financing of the proposed housing unit or project.

(2) The proceeds of any advance granted by the department under subsection (1) of this section may be used by the qualified housing sponsor only for the development costs of a proposed housing unit or project or housing development. Each advance so granted shall be repaid in full, by the qualified housing sponsor for which the advance was granted, to the department at the time of the receipt by the housing sponsor of the portion of the loan paid under the initial indorsement of the loan, unless the department extends the repayment period. The department may not extend the repayment period past the date the qualified housing sponsor receives the portion of the loan paid on final indorsement of the loan.

SECTION 21. ORS 456.720 is amended to read:

456.720. (1) The Housing Finance Fund is established, separate and distinct from the General Fund. The **Housing Finance** Fund shall consist of the proceeds from the sale of bonds issued under ORS 456.645 and related refunding bonds, fees and other moneys received by the Housing and Community Services Department under ORS 456.548 to 456.725, moneys appropriated by the state for use by the department in carrying out ORS 456.548 to 456.725 and moneys made available from any other source for use by the department under ORS 456.548 to 456.725.

(2) Except as otherwise provided in this section, moneys in the fund may be expended by the department for the purposes authorized in ORS 456.548 to 456.725. Except as otherwise provided in this section for a capital reserve account, the department may establish one or more accounts within the fund for use in carrying out ORS 456.548 to 456.725.

(3) There may be established within the [*Housing Finance*] fund capital reserve accounts. A capital reserve account shall consist of the aggregate of moneys retained by the department, pursuant to existing agreements with the bondholders, as the annual debt service reserve, as described in ORS 456.655 (1), for each bond issue sold by the department under ORS 456.645. All moneys in the account for an issue which the department has determined a debt service reserve is required shall be used solely for the payment of the principal and interest on the bonds as they mature, the purchase of such bonds, the payment of interest on such bonds and the payment of any redemption premium required to be paid by the department when any such bonds are redeemed prior to maturity. Moneys in the account may not be withdrawn therefrom at any time in such amount as would reduce the amount of moneys in the account below the maximum amount of principal and interest maturing and becoming due in the succeeding fiscal year on all such bonds then outstanding, except for the purpose of paying principal of and interest and premium, if any, on the bonds of the department maturing and becoming due and for the payment of which other moneys in the [*Housing Finance*] fund are not available.

(4) Except as otherwise provided in existing agreements with bondholders, any income or interest earned by or accruing to the capital reserve account because of the investment by the department of moneys within the account may be retained by the department in the fund to apply to any future deficiency that may occur or may be used by the department for the repayment of moneys in the [*revolving account*] **Housing and Community Services Department Fund** that were expended by the department pursuant to ORS 456.574 (2)(b).

(5)**(a)** In order to assure the continual operation and maintenance of the capital reserve account in the Housing Finance Fund and to carry out ORS 456.548 to 456.725, if the amount of money on deposit in the capital reserve account in any year is less than the debt service reserves described in ORS 456.655 (1), the Director of the Housing and Community Services Department shall certify to the Governor and the Legislative Assembly or, during the interim, to the Emergency Board the amount needed to restore the account to its required debt service reserves. The amount so certified by the director may be appropriated by the Legislative Assembly or, during the interim, allocated by the Emergency Board and paid to the department during the then current fiscal year for deposit in the capital reserve account.

[*(6)*] **(b)** For the purposes of this section, the department shall annually value investments in the capital reserve account at the amortized cost of the investments.

[*(7)*] **(6)** There is established within the [*Housing Finance*] fund a Housing Development Account. Moneys in this account are hereby continuously appropriated to carry out the purposes of ORS 456.515 to 456.725 by contract, grant, loan or as otherwise determined necessary by the department.

[*(8)(a)*] **(7)(a)** The Housing Development Account shall consist of moneys deposited or received by the department for the purposes of this account from whatever source. Of the moneys deposited into the account:

(A) The department shall not use moneys from its own resources for administrative expenses; and

(B) The department may use moneys from other sources for administrative expenses only to the extent provided by those sources.

(b) The department may return moneys received or deposited in the account to the original source of the moneys, as the director determines necessary.

[*(9)*] **(8)** Except as otherwise stipulated by the source of [*funds*] **moneys**, any income or interest earned by or accruing to the Housing Development Account because of the investment by the department of moneys in the account may be retained by the department for the uses of the account.

[*(10)*] **(9)** The department may enter into agreements regarding use of moneys received for the Housing Development Account with the source of the moneys, and may comply with the provisions of such agreements.

SECTION 22. (1) The amendments to ORS 456.574, 456.710 and 456.720 by sections 19 to 21 of this 2023 Act are intended to change the name of the "Housing and Community Services Department Revolving Account" to the "Housing and Community Services Department Fund."

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the "Housing and Community Services Department Revolving Account" wherever they occur in statutory law, other words designating the "Housing and Community Services Department Fund."

SECTION 23. ORS 456.579 is amended to read:

456.579. (1) There is established separate and distinct from the General Fund an account to be known as the Manufactured Dwelling Parks Account. Moneys in the account are continuously appropriated to the Housing and Community Services Department for the purpose of carrying out the duties and responsibilities imposed upon the department under ORS 90.800 to 90.850 and 456.581 and this section. Interest earned on the account is credited to the account.

(2) Except for loans provided in ORS 90.840, moneys in the account described in subsection (1) of this section may not be connected to or commingled in any way with the moneys in the **Housing Finance** Fund [*described*] **established** in ORS 456.720.

(3) For the purpose of carrying out the provisions of ORS 90.800 to 90.850 and 456.581 and this section, the department may seek moneys from any lawful source. Moneys obtained by the department pursuant to this subsection must be credited to the account.

SECTION 24. ORS 456.576 and 458.377 are repealed.

SECTION 25. Any moneys remaining in the Elderly Rental Assistance Fund or Self-Sufficiency Housing Fund on the effective date of this 2023 Act that are unexpended, unobligated and not subject to any conditions shall revert to the General Fund.

MISCELLANEOUS CORRECTIONS

SECTION 26. ORS 456.270 is amended to read:

456.270. As used in ORS 456.270 to 456.295:

(1) "Affordable housing covenant" means a nonpossessory interest in real property imposing limitations, restrictions or affirmative obligations that encourage development or that ensure continued availability of affordable rental and owner-occupied housing for low or moderate income [*individuals*] **households**.

(2) "Area median income" means the median income for the metropolitan statistical area in which the affordable housing is located, as determined by the Housing and Community Services Department, adjusted for household size.

(3) "Eligible covenant holder" means:

(a) A public body, as defined in ORS 174.109;

(b) An agency of the United States government;

(c) A public benefit corporation or religious corporation, as those terms are defined in ORS 65.001, one purpose of which is to provide affordable housing for low or moderate income households;

(d) A consumer housing cooperative, as defined in ORS 456.548;

(e) A manufactured dwelling park nonprofit cooperative corporation; or

(f) A federally recognized Indian tribe.

(4) "Low income household" means a household with income less than or equal to 80 percent of the area median income.

(5) "Moderate income household" means a household with income less than or equal to 120 percent and greater than 80 percent of the area median income.

(6) "Subsidy" includes, but is not limited to:

(a) A grant, loan or contract made by a federal agency, a federally recognized Indian tribe or a public body, as defined in ORS 174.109;

(b) A grant, loan or contract made by a nonprofit corporation or a limited liability company the sole member of which is a nonprofit corporation;

(c) A subsidized loan from a lending institution that makes loans for residential housing; or

(d) A subsidized private transaction.

(7) "Third-party right of enforcement" means a right provided in an affordable housing covenant to a third party to enforce the terms of the covenant.

SECTION 27. ORS 456.505 is repealed.

SECTION 28. ORS 458.415 is amended to read:

458.415. In carrying out ORS 458.405 to 458.460, the state shall act by and through its duly constituted board, commission or agency. The [*state by statute or through its respective*] board, commission or agency[,] may provide rules necessary to carry out ORS 458.405 to 458.460.

CONFORMING AMENDMENTS

SECTION 29. ORS 270.100 is amended to read:

270.100. (1)(a) Before offering for sale any real property or equitable interest in real property that the state owns, the state agency acting for the state in the sales transaction shall report to the

Oregon Department of Administrative Services that the state agency intends to sell or transfer the real property or the equitable interest. The department, or an agency the department specifically designates, shall notify other state agencies authorized to own real property of the intended sale or transfer to determine whether acquiring the real property or interest in the real property would be advantageous to another state agency.

(b)(A) The department shall give the first opportunity after other state agencies to acquire, purchase, exchange or lease real property or an interest in real property that the State of Oregon disposes of or sells to:

(i) The following entities, on the condition that the entities will develop housing on the real property that will be occupied by families and individuals with an income no greater than 80 percent of the median family income for the county in which the real property is located:

(I) Nonprofit organizations; and

(II) Indian tribes, as defined in ORS 97.740; and

(ii) Political subdivisions, as defined in ORS 271.005.

(B) The state agency responsible for selling or transferring the property or the equitable interest may require at the time of the sale or transfer that a political subdivision must use state real property or an equitable interest in real property sold or transferred to the political subdivision for a public purpose or benefit, and that the political subdivision may not resell the real property or the equitable interest to a private purchaser.

(c) If a state agency that intends to sell or transfer real property or an equitable interest in real property has not disposed of the real property or the equitable interest under paragraph (a) or (b) of this subsection, the state agency shall cause the real property to be appraised by one or more competent and experienced appraisers in accordance with rules the department adopts. Except as provided in ORS 273.825, if the property has an appraised value exceeding $5,000, the property or an equitable interest in the property may not be sold to any private person except after notice calling for such proposals as set forth in ORS 270.130.

(d) The department shall adopt rules to carry out the provisions of this section.

(2) Before a state agency acquires any real property or interest in real property, except for highway right of way that the Department of Transportation acquires, park properties that the State Parks and Recreation Department acquires and property within the approved projected campus boundaries for public universities listed in ORS 352.002, the state agency shall report to the Oregon Department of Administrative Services that the state agency intends to acquire the real property or the interest in real property. The department shall notify other state agencies that own land that the state agency intends to acquire real property or an interest in real property to determine whether another state agency desires to sell or transfer property that would meet the needs of the acquiring agency. In accordance with rules the Oregon Department of Administrative Services adopts, if no other state agency desires to sell or transfer property that would meet the needs of the agency that intends to acquire real property or an interest in real property, the agency may acquire the real property or interest in real property, consistent with applicable provisions of law.

(3) Before any terminal disposition of real property or an interest in real property, the state agency acting for the state in the transaction must secure approval of the transaction from the Oregon Department of Administrative Services.

(4) Subsection (3) of this section does not apply to terminal disposition of the following real property:

(a) Property that the State Department of Fish and Wildlife controls;

(b) State forestlands that the State Forestry Department controls;

(c) Property that the Department of Transportation controls;

(d) Property that the Department of State Lands controls;

(e) Property that public universities listed in ORS 352.002 control;

(f) Property that the legislative branch of state government controls;

(g) Property that the judicial branch of state government controls; and

(h) Property that the State Parks and Recreation Department controls.

(5) Notwithstanding the provisions of subsection (4) of this section, prior approval by the Oregon Department of Administrative Services is required for the terminal disposition of public land for less than the fair market value of the public land.

(6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436, 273.551 and 308A.709 (1)(a) to (d) do not apply to:

(a) A home or farm that the Department of Veterans' Affairs acquires or sells under ORS 88.720, 406.050, 407.135, 407.145, 407.375 or 407.377.

(b) Real property that the Housing and Community Services Department acquires or sells under the provisions of ORS 456.515 to 456.725 or [*458.480 to 458.490 or*] ORS chapter 458.

(c) Real property that the Oregon Health Authority or the Department of Human Services acquires or sells under ORS 410.075 or 416.340.

OREGON AFFORDABLE HOUSING TAX CREDIT

SECTION 30. ORS 317.097, as amended by section 25, chapter 83, Oregon Laws 2022, is amended to read:

317.097. (1) As used in this section:

(a) "Annual rate" means the yearly interest rate specified on the note, and not the annual percentage rate, if any, disclosed to the applicant to comply with the federal Truth in Lending Act.

(b) "Bonds" means a bond, as defined in ORS 286A.001, if issued on behalf of the Housing and Community Services Department, or bonds, as defined in ORS 456.055, if issued by a housing authority.

(c) "Finance charge" means the total of all interest, loan fees, interest on any loan fees financed by the lending institution, and other charges related to the cost of obtaining credit.

(d) "Lending institution" means any insured institution, as that term is defined in ORS 706.008, any mortgage banking company that maintains an office in this state or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(e) "Manufactured dwelling park" has the meaning given that term in ORS 446.003.

(f) "Nonprofit corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended and in effect on December 31, 2021.

(g) "Preservation project" means housing that was previously developed as affordable housing with a contract for rent assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity.

(h) "Qualified assignee" means any investor participating in the secondary market for real estate loans.

(i) "Qualified borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

(j) "Qualified loan" means:

(A) A loan that meets the criteria stated in subsection (5) of this section or that is made to refinance a loan that meets the criteria described in subsection (5) of this section; or

(B) The purchase by a lending institution of bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria described in subsection (5) of this section.

(k) "Sponsoring entity" means a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(2) The Department of Revenue shall allow a credit against taxes otherwise due under this chapter for the tax year to a lending institution that makes a qualified loan certified by the Housing

and Community Services Department as provided in subsection (7) of this section. The amount of the credit is equal to the difference between:

(a) The amount of finance charge charged by the lending institution during the tax year at an annual rate less than the market rate for a qualified loan that is made before January 1, 2026, that complies with the requirements of this section; and

(b) The amount of finance charge that would have been charged during the tax year by the lending institution for the qualified loan for housing construction, development, acquisition or rehabilitation measured at the annual rate charged by the lending institution for nonsubsidized loans made under like terms and conditions at the time the qualified loan for housing construction, development, acquisition or rehabilitation is made.

(3) The maximum amount of credit for the difference between the amounts described in subsection (2)(a) and (b) of this section may not exceed four percent of the average unpaid balance of the qualified loan during the tax year for which the credit is claimed.

(4) Any tax credit allowed under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(5) To be eligible for the tax credit allowable under this section, a lending institution must make a qualified loan by either purchasing bonds, the proceeds of which are used to finance or refinance a loan that meets the criteria stated in this subsection, or making a loan directly to:

(a) An individual or individuals who own a dwelling, participate in an owner-occupied community rehabilitation program and are certified by the local government or its designated agent as having an income level when the loan is made of [*less than*] 80 percent of the area median income **or less**;

(b) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department that the:

(i) Housing created by the loan is or will be occupied by households earning [*less than*] 80 percent of the area median income **or less**; and

(ii) Full amount of savings from the reduced interest rate provided by the lending institution is or will be passed on to the tenants in the form of reduced housing payments;

(c) Subject to subsection (14) of this section, a qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing consisting of a manufactured dwelling park; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing will continue to be operated as a manufactured dwelling park during the period for which the tax credit is allowed;

(d) A qualified borrower who:

(A) Uses the loan proceeds to finance acquisition or rehabilitation of housing consisting of a preservation project; and

(B) Provides a written certification executed by the Housing and Community Services Department that the housing preserved by the loan:

(i) Is or will be occupied by households earning [*less than*] 80 percent of the area median income **or less**; and

(ii) Is the subject of a rent assistance contract with the United States Department of Housing and Urban Development or the United States Department of Agriculture that will be maintained by the qualified borrower; or

(e) A qualified borrower who:

(A) Uses the loan proceeds to finance construction, development, acquisition or rehabilitation of housing; and

(B) Provides a written certification executed by the Housing and Community Services Department or the governmental party to the rent assistance contract that the housing preserved by the loan:

(i) Is or will be occupied by households earning [*less than*] 80 percent of the area median income **or less**; and

(ii) Is the subject of a rent assistance contract with the federal government or with a state or local government that will be maintained by the qualified borrower and that limits a tenant's rent to no more than 30 percent of their income.

(6) A loan made to refinance a loan that meets the criteria stated in subsection (5) of this section must be treated the same as a loan that meets the criteria stated in subsection (5) of this section.

(7) For a qualified loan to be eligible for the tax credit allowable under this section, the Housing and Community Services Department must execute a written certification for the qualified loan that:

(a) States that the qualified loan is within the limitation imposed by subsection (8) of this section; and

(b) Specifies the period, as determined by the Housing and Community Services Department, during which the tax credit is allowed for the qualified loan, not to exceed:

(A) 30 years, for a qualified loan with a contract for rent assistance or financing resources from the United States Department of Agriculture, for new housing construction, acquisition of housing or a preservation project; or

(B) 20 years, for any other type of qualified loan.

(8) The Housing and Community Services Department may certify qualified loans that are eligible under subsection (5) of this section if the total credits attributable to all qualified loans eligible for credits under this section and then outstanding do not exceed $35 million for any fiscal year. In making loan certifications under subsection (7) of this section, the Housing and Community Services Department shall attempt to distribute the tax credits statewide, but shall concentrate the tax credits in those areas of the state that are determined by the Oregon Housing Stability Council to have the greatest need for affordable housing.

(9) The tax credit provided for in this section may be taken whether or not:

(a) The financial institution is eligible to take a federal income tax credit under section 42 of the Internal Revenue Code with respect to the project financed by the qualified loan; or

(b) The project receives financing from bonds, the interest on which is exempt from federal taxation under section 103 of the Internal Revenue Code.

(10) For a qualified loan defined in subsection (1)(j)(B) of this section financed through the purchase of bonds, the interest of which is exempt from federal taxation under section 103 of the Internal Revenue Code, the amount of finance charge that would have been charged under subsection (2)(b) of this section is determined by reference to the finance charge that would have been charged if the federally tax exempt bonds had been issued and the tax credit under this section did not apply.

(11) A lending institution may sell a qualified loan for which a certification has been executed to a qualified assignee whether or not the lending institution retains servicing of the qualified loan so long as a designated lending institution maintains records, annually verified by a loan servicer, that establish the amount of tax credit earned by the taxpayer throughout each year of eligibility.

(12) Notwithstanding any other provision of law, a lending institution that is a community development corporation organized under the Oregon Nonprofit Corporation Law may transfer all or part of a tax credit allowed under this section to one or more other lending institutions that are

stockholders or members of the community development corporation or that otherwise participate through the community development corporation in the making of one or more qualified loans for which the tax credit under this section is allowed.

(13) The lending institution shall file an annual statement with the Housing and Community Services Department, specifying that it has conformed with all requirements imposed by law to qualify for a tax credit under this section.

(14) Notwithstanding subsection (1)(i) and (k) of this section, a qualified borrower on a loan to finance the construction, development, acquisition or rehabilitation of a manufactured dwelling park under subsection (5)(c) of this section must be:

(a) A nonprofit corporation, manufactured dwelling park nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706 or housing authority; or

(b) A nonprofit corporation or housing authority that has a controlling interest in the real property that is financed by a qualified loan. A controlling interest includes a controlling interest in the general partner of a limited partnership that owns the real property.

(15) The Department of Revenue may require that a lending institution that has earned the credit and a lending institution that intends to claim the credit jointly file a notice, as prescribed by the Department of Revenue. The notice must comply with ORS 315.056 (2) or 315.058 (2).

(16) The Housing and Community Services Department shall provide information to the Department of Revenue about all certifications executed under this section, if required by ORS 315.058.

(17) The Housing and Community Services Department and the Department of Revenue may adopt rules to carry out the provisions of this section.

CAPTIONS

SECTION 31. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

EMERGENCY CLAUSE

SECTION 32. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.

Passed by Senate May 1, 2023

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Lori L. Brocker, Secretary of Senate

.....
Rob Wagner, President of Senate

Passed by House May 25, 2023

.....
Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2023

Approved:

.....M.,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2023

.....
Secretary of State