Chapter 456

2011 EDITION

Housing

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GENERAL PROVISIONS

456.005 Definitions for ORS chapters 456 and 458. As used in ORS chapters 456 and 458:

(1) "Federal government" includes the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(2) "Housing authority" or "authority" means any public corporation created under ORS 456.055 to 456.235.

(3) "Housing Authorities Law" means ORS 456.055 to 456.235. [Amended by 1989 c.874 §7; 1995 c.79 §235; 1995 c.445 §1]

HOUSING AUTHORITIES LAW

456.055 General definitions for ORS 456.055 to 456.235. As used in the Housing Authorities Law, unless the context requires otherwise:

(1) "Affordable housing" means dwelling units that may be purchased or rented, with or without government assistance, by persons of eligible income.

(2) "Blighted area" means any area where housing, by reason of neglect and dilapidation, is detrimental to the safety or health of the occupants or of the neighborhood in which the housing is located.

(3) "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to the Housing Authorities Law. The giving of a note secured by a mortgage or trust deed will not constitute a bond.

(4) "The city" means the particular city included within a particular housing authority.

(5) "Clerk" means the recorder of the city or the clerk of the county, as the case may be, or the officer of the city or the county, respectively, charged with the duties customarily imposed on such clerk.

(6) "County" means any county in the state. "The county" means a particular county or counties for which a particular housing authority is created.

(7) "Governing body" means, in the case of a city, the common council or other legislative body thereof, and, in the case of a county, the county court, commission or other legislative body thereof.

(8) "Housing" means housing of all kinds, including but not limited to single-family dwellings, multifamily dwellings, emergency shelters, dwelling accommodations, living accommodations, manufactured dwelling parks, residential units, housing projects or other dwellings.

(9) "Housing unit" or "unit" means a single-family dwelling, a single apartment or other single dwelling.

(10) "Mixed income housing" means a housing project that houses tenants with a mixture of income levels, including those not of lower income, for the purpose of reducing the rents for tenants whose incomes are no greater than 60 percent of the area median income.

(11) "Obligee of the authority" or "obligee" includes any bondholder or trustee for any bondholder, or lessor demising to the authority property used in connection with a housing project, or any assignee of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the authority.

(12) "Persons of eligible income" means individuals or families who meet the applicable income limits of local, state or federally funded programs or developments.

(13) "Private market" means those rental housing units owned and operated by nongovernment entities and without government subsidies.

(14) "Person of lower income" or "family of lower income" means a person or a family, residing in this state, whose income is not greater than 80 percent of the area median income, adjusted for family size, as determined by the Housing and Community Services Department using United States Department of Housing and Urban Development information.

(15) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens. [Amended by 1971 c.471 §1; 1973 c.672 §1; 1987 c.821 §1; 1989 c.874 §1; 1995 c.445 §2; 2007 c.606 §5]

456.060 Definition of "area of operation"; intergovernmental agreements. (1) As used in the Housing Authorities Law, unless the context requires otherwise, "area of operation" includes:

(a) In the case of a housing authority of a city:

(A) The area within the city;

(B) If the city has adopted in its comprehensive land use plan an urban growth boundary recognized by the governing bodies of the counties in which it is situated, the area within that urban growth boundary; and

(C) Unless a county has an existing housing authority which is operating and substantially addressing the need for housing

in the county for persons of lower income, the area within 10 miles from the territorial boundaries of the city, excepting any area which lies within the territorial or urban growth boundaries of some other city which has by ordinance prohibited such operation within the city or its urban growth boundaries because the city finds that:

(i) An existing public agency operating within the area is substantially addressing the need for housing in the city for persons of lower income; or

(ii) There is no need for housing in the city for persons of lower income.

(b) In the case of a housing authority of a county, the area within the county which lies:

(A) Outside the territorial boundaries of any city or, if a city has adopted in its comprehensive land use plan an urban growth boundary recognized by the governing bodies of the counties in which it is situated, that urban growth boundary; and

(B) Inside the territorial or urban growth boundaries of any city unless the city has by ordinance prohibited such operation within the city or its urban growth boundary because the city finds that:

(i) An existing public agency operating within the area is substantially addressing the need for housing in the city for persons of lower income; or

(ii) There is no need for housing in the city for persons of lower income.

(2) As used in this section, "need" means the condition described in ORS 456.085.

(3) Nothing in this section shall prevent units of local government from entering into intergovernmental agreements pursuant to ORS 190.003 to 190.130 for the purpose of:

(a) Establishing areas of operation which are different from the areas specified in this section, including agreements which utilize an urban growth boundary to allocate areas of operation between the housing authorities of a city and a county.

(b) Permitting a specific housing program or portion of a program to be operated in areas within the corporate limits of a city by an existing housing authority of a county or some other city. [Amended by 1973 c.672 §2; 1977 c.667 §1; 1995 c.445 §14; 2003 c.14 §287]

456.065 Definition of "housing project." (1) As used in this section:

(a) "Community services" means services provided by public or private nonprofit organizations or service agencies that may include, but are not limited to, child care, early childhood education, health, human resources, information and referral services, basic life skills and adult literacy classes, support services designed to improve self-sufficiency and recreational programs.

(b) "Community services facilities" includes, but is not limited to, all buildings, grounds or other real or personal property necessary to provide a public benefit, appurtenances that are necessary, convenient or desirable, streets, sewers, water service and other utilities, parks and gardens.

(2) As used in the Housing Authorities Law, unless the context requires otherwise, "housing project" means any work or undertaking:

(a) To provide decent, safe and sanitary urban or rural housing for persons or families of lower income. A work or undertaking described in this paragraph may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service and other utilities, parks, site preparation, gardening, administrative, community services, leased commercial facilities consistent with mixed residential and commercial communities, health, recreational, educational, welfare or other purposes authorized under ORS 456.055 to 456.235.

(b) To provide community services facilities for the benefit of the health, recreation, education, culture and welfare of the entire community, without regard to the economic status of the persons or families who may utilize the facilities.

(c) To demolish, clear or remove buildings from any blighted area. A work or an undertaking described in this paragraph may embrace the adaptation of the area to public purposes, including housing, parks, community services facilities or other recreational, educational, cultural or community purposes.

(d) To accomplish a combination of the projects described in paragraphs (a), (b) and (c) of this subsection, or accomplish the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection with those projects.

(e) To provide management, administration and contract services between the housing authority and owners of decent, safe and sanitary housing for the purpose of providing affordable housing to persons of eligible income. [Amended by 1973 c.672 §3; 1977 c.667 §2; 1989 c.874 §2; 1993 c.125 §1; 1995 c.79 §236; 1995 c.445 §3; 1997 c.406 §1; 2007 c.606 §6]

456.070 Declaration of necessity for establishment of housing authorities. It hereby is declared:

(1) That there exists in this state a need for an increase in affordable housing for persons or families of lower income.

(2) That it is a goal of this state to increase the availability of affordable housing for persons and families of lower income.

(3) That there is a necessity in the public interest for the Housing Authorities Law. [Amended by 1973 c.672 §4; 1995 c.445 §4]

456.075 Housing authorities created; declaration of need required before housing authority may function. In each city, as defined in ORS 456.055, and county there hereby is created a public body corporate and politic to be known as the "housing authority" of the city or county. However, the housing authority shall not transact any business or exercise its powers until or unless the governing body of the city or the county, by proper resolution, declares that there is need for an authority to function in such city or county. The governing body of the city or the county shall also elect to have the powers of a housing authority exercised in any one of the two ways provided in ORS 456.095 (1). [Amended by 1969 c.630 §2; 1975 c.322 §1]

456.080 Determination of need for housing authority. (1) The determination whether there is a need for a housing authority to function in a city or county may be made either by election as provided in this section or by the governing body of a city or county on its own motion. The governing body of the city or county shall order the election when a petition is filed as provided in this section.

(2) A petition under this section must state that there is a need for a housing authority to function.

(3) Except as provided in subsections (4) and (5) of this section, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition:

(a) In the case of a county, in ORS 250.165 to 250.235.

(b) In the case of a city, in ORS 250.265 to 250.346.

(4) Notwithstanding ORS 250.325, a city governing body shall submit the question to the electors without first considering its adoption or rejection.

(5) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(6) An election under this section shall be conducted under ORS chapters 246 to 260, and:

(a) In the case of a city, must be held on a date specified in ORS 221.230.

(b) In the case of a county, must be held on a date specified in ORS 203.085.

(7) If the electors voting at the election favor the functioning of the housing authority, the governing body shall declare that there is need for such housing authority to function.

(8) The question of need shall not again be submitted at any election within one year immediately following the election at which the question was voted upon. [Amended by 1983 c.350 §275]

456.085 Adopting resolution declaring need for authority. The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, if it finds that there exists a need for additional safe, decent and sanitary affordable housing for persons or families of lower income. [Amended by 1973 c.672 §5; 1995 c.445 §5]

456.090 Sufficiency of resolution; copy as evidence. (1) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of authority, the authority is conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of a resolution by the governing body declaring the need for the authority. The resolution is deemed sufficient if it declares that there is a need for an authority and finds that the condition described in ORS 456.085 exists in the city or county, in substantially the terms used in that subsection, no further detail being necessary.

(2) A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding. [Amended by 1995 c.445 §15]

456.095 Appointment and qualification of commissioners of housing authorities. (1) When the governing body of a city or county adopts a resolution pursuant to ORS 456.085, the governing body may then elect to have the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547 exercised in any of the following ways:

(a) Appointing by resolution, a commission composed of five, seven or nine persons.

(b) Declaring, by resolution, that the governing body, itself, shall exercise the powers of a housing authority under this

chapter, ORS chapter 455 and ORS 446.515 to 446.547. A governing body that exercises the powers of a housing authority may appoint at least one but not more than two additional commissioners for the housing authority. An appointed commissioner has the same authority as other housing authority commissioners, but may not exercise any powers of the governing body. At least one appointed commissioner must be a resident who receives direct assistance from the housing authority. The second appointed commissioner, if any, at a minimum must live within the jurisdiction of the authority. An appointed commissioner serves a term of office equal in length to the terms of office for governing body members, but not more than four years. An appointed commissioner may be removed only for cause as described in ORS 456.110 or if the commissioner ceases to meet the requirements for being an appointed commissioner. In the event that a housing authority commission consisting of the governing body of a city and one or more appointed commissioners has an even number of members, the mayor shall be included as a member of the commission for the housing authority. An act of a governing body exercising the powers of a housing authority is an act of the commission for the housing authority only and not of the governing body.

(2) When the governing bodies of two or more authorities join and cooperate with one another and create a regional authority to exercise all the powers conferred by the Housing Authorities Law, as authorized by ORS 456.140, the governing bodies of the cooperating cities and counties shall by resolution appoint a commission for the regional authority consisting of nine persons. The cooperating cities and counties shall each appoint an equal number of the nine commissioners. If nine divided by the number of joining or cooperating cities and counties produces a fraction, then the commissioners appointed by such cities and counties shall appoint one commissioner so that nine commissioners in all are appointed. The nine commissioners appointed by or on behalf of cities or counties may appoint at least one but not more than two additional commissioners for the housing authority. At least one additional commissioner must be a resident who receives direct assistance from the housing authority. The second additional commissioner, if any, at a minimum must live within the jurisdiction of the authority. The term of office for an additional commissioner is equal to the term of office for a commissioner appointed by or on behalf of cities or counties. An additional commissioner may be removed only for cause as described under ORS 456.110 or if the person ceases to meet the requirements for being an additional commissioner.

(3) A commissioner of an authority may not be an officer or employee of any city or county for which the authority is created, unless the commissioner is a member of the governing body or one of the governing bodies.

(4) Persons appointed to the commission shall include a variety of occupations. At least one commissioner, but not more than two commissioners, appointed under subsection (1)(a) of this section must be a resident who receives direct assistance from the housing authority.

(5) A governing body shall adopt a resolution for the appointment or reappointment of a commissioner. A governing body resolution is conclusive evidence that the commissioner was properly appointed. [Amended by 1969 c.630 §3; 1971 c.592 §1; 1973 c.672 §6; 1975 c.335 §1; 2001 c.547 §3; 2007 c.606 §7]

456.100 Terms and compensation of commissioners. (1) The commissioners of a five-member authority who are first appointed shall serve terms as follows:

(a) One commissioner shall be appointed for a term of one year.

(b) One commissioner shall be appointed for a term of two years.

(c) One commissioner shall be appointed for a term of three years.

(d) Two commissioners shall be appointed for terms of four years.

(2) The commissioners of a seven-member authority who are first appointed shall serve terms as follows:

(a) One commissioner shall be appointed for a term of one year.

(b) Two commissioners shall be appointed for terms of two years.

(c) Two commissioners shall be appointed for terms of three years.

(d) Two commissioners shall be appointed for terms of four years.

(3) The commissioners of a nine-member authority who are first appointed shall serve terms as follows:

(a) Two commissioners shall be appointed for terms of one year.

(b) Two commissioners shall be appointed for terms of two years.

(c) Two commissioners shall be appointed for terms of three years.

(d) Three commissioners shall be appointed for terms of four years.

(4) Thereafter, commissioners shall be appointed by resolution in the same manner as their original appointment for a term of

office of four years except that all vacancies shall be filled for the unexpired term. A commissioner shall hold office until a successor has been appointed and qualified.

(5) A commissioner shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of the duties of the commissioner. [Amended by 1973 c.672 §7; 2001 c.547 §4]

456.105 Organization; officers; quorum; employees; legal services. (1) A majority of the commissioners of an authority shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes.

(2) Except as otherwise provided in the Housing Authorities Law, action may be taken by the authority upon a vote of a majority of the commissioners present, a quorum being present, unless the bylaws of the authority require a larger number.

(3) The authority shall select a chairperson and vice chairperson from among its commissioners.

(4) An authority may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it requires. It shall determine their qualifications, duties and compensation.

(5) For such legal services as it requires, an authority may, if it is not a regional authority, call upon the chief law officer of the city or the county or it may employ its own counsel and legal staff. [Amended by 1973 c.672 §8]

456.110 Removal of commissioner. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority appointed pursuant to ORS 456.095 (1) or (2) may be removed by the mayor or, in the case of an authority for a county, by the governing body of the county or, in the case of a regional authority, by the appointing authority for the commissioner. This section does not allow the removal of a member of a governing body exercising power as a housing authority. A commissioner shall not be removed until after the commissioner has been given a copy of the charges at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk for each city and county in the authority. [Amended by 1969 c.630 §4; 1973 c.672 §9; 2001 c.547 §5]

456.115 Commissioners and employees may not have interest in project other than as tenant; disclosure of interest; duty to act as prudent person. (1) No commissioner or employee of an authority shall acquire any interest in any housing project or in any property included or planned to be included in any project, nor shall the commissioner or employee of an authority have an interest except as a tenant in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.

(2) For the purposes of subsection (1) of this section, the leasehold interest of a tenant appointed to the board or commission under ORS 456.095 shall not be considered an interest in a project, property or contract if the leasehold interest is granted on the same basis and is subject to the same terms and conditions as other leasehold interests of other tenants of the authority. A tenant-commissioner shall refrain from voting on any action that affects the individual interest of the tenant-commissioner as distinguished from the interests of tenants as a class.

(3) If any commissioner or employee of an authority owns or controls an interest in any property included or planned to be included in any housing project, the commissioner or employee immediately shall disclose the same in writing to the authority. Such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office.

(4) A commissioner shall discharge the commissioner's duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character. [Amended by 1975 c.335 §2; 1995 c.483 §1]

456.118 Prohibition against using term; enjoining violations. No person other than a housing authority created under ORS 456.055 to 456.235 may use the term "housing authority" or a variation of the term "housing authority" in the corporate or other business name or title of the person. Any housing authority may bring a civil suit to enjoin a violation of this section, regardless of whether the housing authority shows that the authority will suffer damage from the violation. [2007 c.606 §3]

456.120 Powers of housing authority as public corporation. A housing authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes of the Housing Authorities Law. These powers shall be vested

in the commissioners of the authority and shall include the following in addition to others granted in the Housing Authorities Law:

(1) To sue and be sued.

(2) To have a seal and to alter the same at pleasure.

(3) To have perpetual succession.

(4) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.

(5) To make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with the Housing Authorities Law, to carry into effect the powers and purposes of the authority.

(6) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof.

(7) Notwithstanding any laws to the contrary, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government attaches to its financial aid of the project.

(8) To lease or rent any housing, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations of the Housing Authorities Law, to establish and revise the rents or charges therefor.

(9) To own, hold and improve real or personal property.

(10) To purchase, buy on contract, exchange, lease, lease back, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein and to give its mortgage or trust deed covering any real property or security agreement covering any personal property or any interest in either.

(11) To sell, mortgage, lease, rent, exchange, transfer, assign, pledge or otherwise dispose of any real or personal property or any interest therein.

(12) To insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

(13) To procure insurance or guarantees from the federal government of the payment of any debts or parts thereof, whether or not incurred by said authority, secured by mortgages on any property included in any of its housing projects.

(14) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or any investment in which an Oregon city may legally invest surplus funds, and, in addition, to invest bond proceeds and amounts held in bond payment, reserve and proceeds accounts in investment agreements that:

(a) Produce a guaranteed rate of return;

(b) Are fully collateralized by direct obligations of, or obligations guaranteed by, the United States; and

(c) Require that the collateral be held by the authority, an agent of the authority or a third-party safekeeping agent.

(15) To purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(16) To exercise all or any part or combination of powers granted in the Housing Authorities Law.

(17) To borrow money pursuant to ORS 456.055 to 456.235 or as otherwise allowed and accept advances, loans or grants or any other form of financial assistance or any combination of these forms of assistance from the federal government, state, county or other public body, or from any sources, public or private, for the purpose of undertaking and carrying out housing projects.

(18) To enter in a partnership agreement with or loan money to an individual, partnership, corporation or other association to finance, plan, undertake, construct, acquire, manage or operate a housing project.

(19) To finance, develop, own, operate or manage a mixed income housing project that meets the following requirements:

(a) No fewer than 20 percent of the units in the project so financed shall be rented to households with incomes of 50 percent or less of area median income;

(b) No fewer than 40 percent of the units in the project so financed shall be rented to households with incomes of 60 percent or less of area median income; or

(c) The minimum requirements imposed by any federal tax law that is applicable to the project.

(20) To form, finance and have a nonstock interest in, and to manage or operate, partnerships, nonprofit corporations and limited liability companies in order to further the purposes of the housing authority. [Amended by 1987 c.821 §2; 1989 c.874 §3; 1991 c.600 §1; 1995 c.79 §237; 1995 c.445 §6; 1995 c.483 §2; 2007 c.606 §8]

456.122 Inapplicability of laws relating to other public bodies. Unless specifically provided, no law with respect to the acquisition, operation or disposition of property by

other public bodies applies to a housing authority.

456.125 Research, planning, construction and operation of housing projects. Within its area of operation, a housing authority may:

(1) Investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions by either the housing authority or the private market.

(2) Determine where blighted areas exist or where there is a shortage of decent, safe and sanitary housing for persons or families of lower income.

(3) Make studies and recommendations relating to the problem of clearing, replanning and reconstructing blighted areas to provide affordable housing and the problem of providing housing for persons or families of lower income. An authority is encouraged to cooperate with the private market and the city, county or state or any of their political subdivisions in action taken in connection with identifying and solving such problems.

(4) Engage in research, studies and experimentation on the subject of housing.

(5) Prepare, carry out, acquire, lease and operate housing projects.

(6) Provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof. [Amended by 1973 c.672 §10; 1995 c.445 §7; 2007 c.606 §9]

456.128 Housing authority intellectual property. (1) As used in this section:

(a) "Housing authority" means a housing authority created under ORS 456.075. "Housing authority" includes a person exercising delegated powers and duties under ORS 456.135, a local government electing under ORS 456.095 to have the powers of a housing authority and a body to which powers and authority are transferred under ORS 456.233.

(b) "Intellectual property" and "person" have the meanings given those terms in ORS 456.562.

(2) Subject to any superior patent rights or copyrights, a housing authority may license, share or otherwise provide for the use by a person of intellectual property acquired or developed by the authority. Except as provided in this subsection, the housing authority may charge fees for licensing, sharing or otherwise providing for the use of the intellectual property. The housing authority may not charge a fee under this subsection to a federal, state or local government body.

(3) A housing authority may take actions that the authority deems necessary and appropriate to carry out this section, including but not limited to applying for patents or copyright registration to perfect or preserve the authority's rights in intellectual property. [2003 c.605 §2]

Note: 456.128 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.130 Investigations, hearings and recommendations of authority. Any authority, acting through one or more commissioners or other persons designated by the authority, may:

(1) Conduct examinations and investigations and hear testimony and take proof under oath at private or public hearings on any matter material for its information.

(2) Administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and issue commissions for the examination of witnesses who are outside the state or unable to attend before the authority or excused from attendance.

(3) Make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within the area of operation, its findings and recommendations with regard to any buildings or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

456.135 Delegation of powers or duties. An authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.

456.140 Joinder or cooperation of authorities. Any two or more authorities may join or cooperate with one another in the exercise of any or all of the powers conferred by the Housing Authorities Law for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of one or more of the authorities.

456.145 Eminent domain. (1) An authority may acquire, by the exercise of the power of eminent domain, any real property which it deems necessary for its purposes after adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided for in the laws of this state for the condemnation of lands or rights of way by public or quasi-public corporations for public use or for corporate purposes; or in the manner provided by law for the appropriation of real property, or rights therein or thereto, by

private corporations; or in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.

(2) Property already devoted to a public use may be acquired in like manner, but no real property belonging to the city, the county, the state or any political subdivision thereof may be acquired without its consent.

456.150 Housing projects subject to local laws; consideration of other programs. (1) All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated.

(2) In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

456.153 Involvement in mixed income housing project. A housing authority may finance, develop, own, manage or operate a mixed income housing project if:

(1) The housing authority determines that a substantial number of persons of eligible income in the area served by the authority cannot obtain housing for 30 percent or less of their income.

(2) Based on the determination under subsection (1) of this section, the housing authority adopts a resolution declaring the need for additional housing for persons or families of lower income that can be addressed by the authority financing, developing, owning, managing or operating a mixed income housing project. [1995 c.445 §9; 2007 c.606 §10]

456.155 Policy regarding profit from projects; reserves. (1) It hereby is declared to be the policy of this state that:

(a) Each housing authority shall manage and operate its housing projects in an efficient and cost-effective manner so as to enable it to set the rents for housing units at the lowest possible rates consistent with providing decent, safe and sanitary housing and fulfilling the unmet need of affordable housing for persons or families of lower income.

(b) No housing authority shall construct or operate any such housing for profit, or as a source of revenue to a city or a county.

(2) Notwithstanding any provisions of this section to the contrary, a housing authority may establish and maintain reasonable reserves for the purpose of providing additional housing projects that the authority owns or manages and otherwise administering its programs pursuant to this chapter. [Amended by 1977 c.343 §1; 1989 c.874 §4; 1995 c.445 §10]

456.160 Limitations as to rentals. In the operation or management of housing projects, a housing authority shall at all times observe the following duties with respect to rentals and tenant selection:

(1) A housing authority may rent or lease the housing only to persons of eligible income, except:

(a) If the authority owns, operates or manages the housing and a substantial number of the housing units are required to be rented or leased to persons of eligible income; or

(b) If the authority acquires an existing housing unit that houses a tenant not of eligible income, the tenant may remain in the unit at the discretion of the authority, unless the tenant is determined ineligible for reasons other than income qualification.

(2) A housing authority may rent or lease the housing at rents no higher than will provide revenue sufficient to give financial stability to the housing authority. This limitation does not apply to housing units that are owned, operated or managed as described in subsection (1) of this section if the units are not occupied by families receiving assistance from an authority. [Amended by 1973 c.672 §11; 1977 c.667 §3; 1987 c.821 §3; 1995 c.445 §11; 2007 c.606 §11]

456.165 Vested rights of creditors not affected by restrictions of ORS 456.155 and 456.160. ORS 456.155 and 456.160 do not limit the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by those sections.

456.170 [Amended by 1973 c.672 §12; repealed by 2007 c.606 §13]

456.171 Independent audit of authority. At least once each year, a housing authority shall procure an independent audit of authority finances and activities for the preceding year, make the audit available for inspection by the public and provide a copy of the audit to each governing body that appoints the housing authority commissioners. [2007 c.606 §2]

456.175 Issuance of bonds; means for payment. An authority may issue bonds from time to time in its discretion upon the resolution adopted by a majority vote of the commissioners for any of its corporate purposes. An authority may also issue refunding and advance refunding bonds for the purpose

of paying or retiring bonds previously issued by it. [Amended by 1989 c.874 §5]

456.180 Liability on bonds; debt limitation. (1) Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(2) The bonds and other obligations of an authority shall not be a debt of the city, the county, the state or any political subdivision thereof, and the bonds and obligations shall so state on their face. Neither the city, the county, nor the state or any political subdivision thereof shall be liable thereon. Nor, in any event, shall such bonds or obligations be payable out of any funds or properties other than those of the authority.

(3) The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

456.185 Issuance of bonds. Bonds of an authority must be authorized by its resolution adopted by a vote of a majority of the commissioners, must be issued as prescribed in ORS chapter 287A and are not subject to the requirements of ORS 287A.150. [Amended by 1969 c.694 §13; 1973 c.672 §13; 1977 c.188 §5; 1981 c.94 §42; 1989 c.874 §8; 2001 c.215 §11; 2007 c.783 §193]

456.190 Presumption of validity of bond. In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide housing for persons or families of lower income is conclusively deemed to have been issued for a housing project of such character and said project is conclusively deemed to have been planned, located and constructed in accordance with the Housing Authorities Law. [Amended by 1973 c.672 §14; 1995 c.445 §12; 2007 c.783 §194]

456.195 [Repealed by 1989 c.874 §9]

456.197 [1969 c.694 §15; 1973 c.672 §15; repealed by 1989 c.874 §9]

456.200 Powers of authority in securing payment of bonds or lease obligations. In connection with the issuance of bonds or the incurring of obligations and in order to secure the payment of such bonds or obligations, an authority may:

(1) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or thereafter comes into existence.

(2) Mortgage its real or personal property, then owned or thereafter acquired.

(3) Covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property.

(4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof.

(5) Covenant as to what other or additional debts or obligations may be incurred by it.

(6) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(7) Provide for the replacement of lost, destroyed or mutilated bonds.

(8) Covenant against extending the time for the payment of its bonds or interest thereon.

(9) Redeem the bonds and covenant for their redemption and provide the terms and conditions thereof.

(10) Covenant, subject to the limitations of the Housing Authorities Law, as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(11) Create or authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the moneys held in such funds.

(12) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(13) Covenant as to the use, maintenance and replacement of its real and personal property, the insurance to be carried thereon and the use and disposition of insurance moneys.

(14) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(15) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(16) Vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds

or any covenants securing or relating to the bonds.

(17) Vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee.

(18) Provide for the powers and duties of a trustee or trustees and to limit their liabilities.

(19) Provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(20) Exercise all or any part or combination of the powers granted in this section.

(21) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.

(22) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, tending to make the bonds more marketable although the covenants, acts or things are not enumerated in this section.

(23) Purchase letters of credit, bond insurance or any other credit enhancement device that would establish or increase marketability of its bonds.

(24) Pay its obligations with income, revenues or loan repayments of the housing project financed with the proceeds of such obligations, or with such proceeds together with a grant from the federal government or this state in aid of such project. [Amended by 1987 c.821 §5; 1989 c.874 §6; 1991 c.600 §2]

456.202 Short-term bond anticipation notes. (1) An authority shall have the power to borrow money for the purposes for which its bonds are to be issued in anticipation of the receipt of proceeds of the sale of such bonds and within the authorized maximum of such bond issue.

(2) Bond anticipation notes shall be issued for all moneys borrowed under the provisions of this section. Such notes may be issued for a period not exceeding one year and may be renewed from time to time for periods not exceeding one year, but each such note, including renewals, shall mature and be paid not later than five years after the date on which the original note was issued. Such notes shall be authorized by resolution of the authority, adopted by a majority of the commissioners, and shall be in such denomination or denominations, shall bear interest at such rate or rates, shall be in such form, and shall be executed in such manner, all as a majority of the commissioners shall prescribe. Such notes may be sold at public or private sale in the manner and at such price or prices or for such other consideration, including real or personal property, as the authority shall determine, provided that if such notes be renewal notes, they may be exchanged for notes then outstanding on such terms as the authority shall determine. [1977 c.342 §2]

456.205 Enforcing rights of obligee of an authority. An obligee of an authority, in addition to all other rights conferred on the obligee, subject only to any contractual restrictions binding upon the obligee, may:

(1) By mandamus or other action or proceeding for legal or equitable remedies, compel the authority and its commissioners, officers, agents or employees to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of such obligee, and require the carrying out of all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by the Housing Authorities Law.

(2) By action or proceeding, enjoin any acts or things which may be unlawful, or the violation of any rights of the obligee. [Amended by 1979 c.284 §149]

456.210 Power of authority to confer additional rights upon obligee. An authority, by its resolution, trust indenture, mortgage, lease or other contract, may confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(1) To cause possession of any housing project or any part thereof to be surrendered to an obligee.

(2) To obtain the appointment of a receiver of any housing project of the authority or any part thereof and of the rents and profits therefrom. If a receiver is appointed, the receiver may enter and take possession of the housing project or any part thereof and operate and maintain it and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom, and shall keep such moneys in separate accounts and apply them in accordance with the obligations of the authority as the court directs.

(3) To require the authority and its commissioners to account as if it and they were the trustees of an express trust.

456.215 Financial aid and cooperation of federal government. (1) An authority may:

(a) Borrow money or accept grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation.

(b) Take over or lease or manage any housing project or undertaking constructed or owned by the federal government.

(c) Comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable for the purposes of this subsection.

(2) It is the purpose and intent of the Housing Authorities Law to authorize every authority to do all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority.

456.220 Exemption of property from process or judgment lien. All real property of an authority is exempt from levy and sale by virtue of an execution. No execution or other judicial process shall issue against such property nor shall any judgment against an authority be a charge or lien upon its real property. However, this section does not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues.

456.225 [Amended by 1991 c.851 §1; 1995 c.445 §13; 1997 c.406 §2; renumbered 307.092 in 2003]

456.230 Bonds and income therefrom exempt from personal income taxes. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities. The bonds, together with interest thereon and income therefrom, are exempt from personal income taxes under ORS chapter 316. [Amended by 2007 c.783 §195]

456.233 Transfer of housing authority from governing body to separate board. If, pursuant to this chapter, ORS chapter 455 and ORS 446.515 to 446.547, the governing body in a city or a county has declared, by resolution, that the governing body itself shall exercise the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547, the governing body may thereafter, by resolution, elect to transfer such powers and the authority to act as the housing authority to any other body which may be designated by this chapter, ORS chapter 455 and ORS 446.515 to 446.547 to exercise such powers. The governing body of the city or county may, by resolution, transfer the powers and authority to act as the housing authority to itself. All duties and obligations of the governing body as the housing authority of the municipality shall thereafter be assumed and performed by the body to which such powers and authority are transferred. [1969 c.630 §1; 1975 c.322 §2; 1979 c.621 §17]

456.235 Dissolution of housing authorities. (1) A housing authority may be dissolved upon a majority vote of its commissioners at any regular or special meeting of the commission whereof all the members of the commission have been notified. Except with the consent of the obligees of the housing authority to dissolution, no authority having outstanding bonds or indebtedness shall be dissolved unless the assets of the authority are sufficient to pay such bonds and indebtedness. A copy of the order or resolution of dissolution shall be filed with the clerk of the city or the county, as the case may be.

(2) Upon dissolution of an authority, the property and assets thereof not required for the liquidation of indebtedness of the authority shall vest in or be paid over to the city or the county for which the authority was created or, where a regional authority is dissolved, be paid over to the cities and counties in the authority in proportion to the population within each cooperating city and county according to the most recent determination under ORS 190.510 to 190.610; provided, that if the housing project be located within an incorporated city, then such property and assets shall be paid over and delivered to such city, even though the authority may have been created by a county. Any moneys so received by the clerk shall be credited to the general fund of the city or the county, as the case may be.

(3) After voting for dissolution the authority shall be dissolved for all purposes, excepting, there shall be allowed a period of not to exceed three years after said vote for the liquidation of indebtedness and final settlement of its affairs. [1953 c.716 §2; 1973 c.672 §16]

WITHDRAWAL FROM FEDERAL HOUSING PROGRAM

456.250 Definitions for ORS 456.250 to 456.265. As used in this section and ORS 456.255 to 456.265:

(1) "Federal housing program" means a federal project-based Section 8 subsidized housing program.

(2) "Local government" means a city, county, public corporation, metropolitan service district or other district.

(3) "Participating property" means property that is the subject of a contract between the property owner and the United States Department of Housing and Urban Development for participation in a federal housing program. [1999 c.275 §1]

Note: 456.250 to 456.265 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.255 Legislative findings. (1) The Legislative Assembly finds and declares that:

(a) The maintenance of a pool of affordable housing for all citizens is a matter of statewide concern.

(b) The contracts for many properties in this state that participate in federal housing programs are about to expire. Local governments need an effective process for assessing these expiring contracts and determining whether to assume ownership of the participating properties. The assessment and determination process should ensure appropriate statewide uniformity while maintaining local flexibility. The process should also ensure the rights of property owners and tenants to fair treatment as the contracts expire.

(2) ORS 456.260 and 456.265 are intended to provide a framework for addressing the withdrawal of participating property from federal housing programs. [1999 c.275 §2]

Note: See note under 456.250.

456.260 Local requirement of property withdrawal notice; contents; violations; condemnation alternatives; continuation of tenancies. (1) In establishing a procedure to deal with expiring contracts for participating properties, a local government may:

(a) Require the owner of a participating property to:

(A) Provide notice of the pending contract expiration to each local government that has requested notice and each affected tenant one year prior to the date when the contract for the property to participate in a federal housing program will expire.

(B) Provide notice that the owner intends to withdraw the property from participation in a federal housing program to each local government that has requested notice and each affected tenant up to:

(i) 210 days prior to the expiration of the contract; or

(ii) 150 days prior to the expiration of a one-year extension of the contract, if any.

(C) Consent to reasonable inspection of the property and inspection of the owner reports on file with the Housing and Community Services Department or the United States Department of Housing and Urban Development.

(D) Maintain the contract for property participation in a federal housing program in good standing, if the United States Department of Housing and Urban Development allows that maintenance, during:

(i) The notice periods referred to under this paragraph;

(ii) Any condemnation proceeding commenced; or

(iii) Any alternative procedure agreed to under paragraph (c) of this subsection.

(E) Refrain from taking any action, other than notifying the United States Department of Housing and Urban Development of the owner's intention to not renew the contract, that would preclude the affected local government or its designee from succeeding to the contract or negotiating with the owner for the purchase of the property.

(b) Establish and impose any fine, penalty, tax, fee, charge or assessment upon the owner of participating property for failure to comply with local regulations adopted pursuant to paragraph (a) of this subsection.

(c) Establish an alternative procedure to condemnation, including but not limited to arbitration, mediation or facilitated negotiation. However, an alternative procedure may not be used unless mutually agreed to by the property owner and the local government.

(d) Require an owner to refrain from disturbing tenancies, other than for cause as defined in the contract, for a period of not more than 180 days after expiration of the contract if the local government pays, or arranges for payment, to the owner on the first day of each month, the monthly subsidy that the owner was receiving under the contract.

(2) Any notices provided under subsection (1)(a) of this section shall specify whether the owner:

(a) Intends to withdraw the property from a federal housing program.

(b) Intends to convert the participating property to a nonparticipating use.

(c) Is involved in negotiations with the United States Department of Housing and Urban Development or the Housing and Community Services Department regarding an extension of an expiring participation contract.

(3) ORS 456.255 to 456.265 do not require a local government to purchase, condemn or

otherwise acquire participating property. [1999 c.275 §3]

Note: See note under 456.250.

456.265 Sanctions against withdrawing property owner prohibited. (1) Except as expressly authorized in ORS 456.260 (1) or as may be provided by contract with the property owner, a local government may not:

(a) Impose any fine, penalty, tax, fee, charge, assessment or other restriction or sanction against a property owner for withdrawing the participating property from a federal housing program.

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

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

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

(C) Impose any fine, penalty, tax, fee, charge, assessment or other restriction or sanction against a property owner for refusing an offer by the local government or another party to purchase participating property.

(c) Require a property owner to pay any replacement fee or other fee for tenant relocation from participating property, except as specified in an alternative procedure being used pursuant to ORS 456.260 (1)(c).

(2) Subsection (1) of this section does not prohibit a local government that is certified by a federal agency to carry out an agency responsibility or to exercise agency authority from taking any action within the scope of that responsibility or authority. [1999 c.275 §4]

Note: See note under 456.250.

AFFORDABLE HOUSING COVENANTS

456.270 Definitions for ORS 456.270 to 456.295. 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.

(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. [2007 c.691 §2; 2009 c.11 §63]

Note: 456.270 to 456.295 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.275 Legislative findings. The Legislative Assembly finds and declares that:

(1) There is a serious shortage of decent, safe and sanitary housing available and affordable to low and moderate income households in the State of Oregon.

(2) The inadequacy in the supply of decent, safe and sanitary affordable housing endangers the public health and jeopardizes the public safety and general welfare of the state.

(3) To obtain the benefits of covenants and restrictions that seek to preserve and maintain affordable housing, the Legislative Assembly authorizes the creation and enforcement of affordable housing covenants. [2007 c.691 §1]

Note: See note under 456.270.

456.280 Covenant creation, effect, conveyance, duration and termination. (1) A person may create an affordable housing covenant as a condition of giving or receiving a subsidy during ownership or upon conveying real property, in the form of a covenant, servitude, easement, condition or restriction in a deed, declaration, land sale contract, trust deed, mortgage, security agreement, assignment, will, trust, rental agreement, lease or other written instrument that is:

(a) Executed by the owner of the real property and the covenant holder; and

(b) Recorded in the deed and mortgage records of the county in which the real property is located.

(2) The affordable housing covenant creates a real property right in an eligible covenant holder to:

(a) Limit the use of real property to occupancy by low or moderate income households in rental or owner-occupied housing;

(b) Restrict the rental rate or sale price of real property to ensure affordability by future low and moderate income households;

(c) Limit, restrict or condition the use and enjoyment of real property to create or retain rental or owner-occupied affordable housing for occupancy by low or moderate income households; or

(d) Purchase real property at a trustee's sale under terms set forth in ORS 86.755.

(3) The affordable housing covenant may be conveyed, assigned, modified or terminated by a written instrument recorded in the deed and mortgage records of the county in which the real property is located. The affordable housing covenant may be:

(a) Conveyed or assigned by a written instrument executed by the conveying or assigning covenant holder and the accepting covenant holder;

(b) Modified by a written instrument executed by the covenant holder and the owner of the real property; or

(c) Terminated by a written instrument executed by the covenant holder and a third party with the right to enforce the covenant.

(4) An affordable housing covenant is not invalid because a holder of the covenant is not an eligible covenant holder. A covenant holder who is not an eligible covenant holder may not modify, terminate or commence an action to enforce the covenant. However, the covenant holder may convey or assign the covenant to an eligible covenant holder who may modify or terminate the covenant or commence an action to enforce the covenant.

(5) An affordable housing covenant is unlimited in duration unless:

(a) The instrument creating the covenant provides otherwise;

(b) The duration of the covenant is modified before the stated term of the covenant expires; or

(c) The covenant is terminated.

(6) Upon termination of an affordable housing covenant for any reason before the stated term of the covenant expires, the covenant holder is entitled to receive the difference between the fair market value of the real property immediately before termination and the fair market value of the real property immediately after termination.

(7) An affordable housing covenant does not impair an interest in real property that exists at the time the affordable housing covenant is created unless the owner of the interest is a party to the affordable housing covenant, subordinates the interest to the affordable housing covenant or otherwise agrees to be bound by the affordable housing covenant.

(8) An instrument that creates an affordable housing covenant may grant the eligible covenant holder, or a designee of the eligible covenant holder, a right to enter the real property to ensure compliance with the covenant and, if the right is granted, the instrument shall designate the time and manner in which the eligible covenant holder or designee may enter the real property.

(9) An affordable housing covenant holder may assign a third-party right of enforcement, by a written instrument executed by the covenant holder and recorded in the deed and mortgage records of the county in which the real property is located, to a person that qualifies as an eligible covenant holder but that is not the holder of that covenant.

(10) An affordable housing covenant is automatically terminated if:

(a) The only holder of the covenant is a corporation, as defined in ORS 65.001, that is dissolved without conveying or assigning the covenant; and

(b) No person is entitled to exercise a third-party right of enforcement pursuant to subsection (9) of this section. [2007 c.691 §3; 2011 c.712 §4]

Note: See note under 456.270.

456.285 Permissible provisions. An affordable housing covenant may:

(1) Include limitations, restrictions and affirmative obligations on the sale price or

rental rate of real property or the use of real property or the income or assets of purchasers or tenants;

(2) Limit the amount of equity appreciation that a property owner may derive from ownership of the real property;

(3) Grant a right of first refusal or an option to purchase to the eligible covenant holder;

(4) Restrict the class of persons to whom real property may be sold, leased or rented according to, but not limited to, household income, assets, residency and prior homeownership;

(5) Limit the use of the real property to residential use as the primary residence of a low or moderate income household;

(6) Limit, condition or prohibit leasing or subletting;

(7) Impose obligations for maintenance and insurance of the real property;

(8) Limit, condition or prohibit the owner from allowing liens on the real property; and

(9) Make other limitations, conditions or prohibitions that affect the affordability of real property for low or moderate income households. [2007 c.691 §4]

Note: See note under 456.270.

456.290 Validity of covenant. (1) An affordable housing covenant is valid and enforceable even though the covenant is not of a character traditionally recognized at common law or is inconsistent with a common law doctrine of real property law that might invalidate, impair enforcement of or cause the termination of the covenant, including but not limited to common law doctrine that holds that:

(a) The covenant is not appurtenant to an interest in the real property.

(b) The covenant imposes a negative burden.

(c) The covenant imposes affirmative obligations upon the owner of an interest in the burdened real property or the eligible covenant holder.

(d) The covenant is held by an eligible covenant holder that does not have an interest in the real property that is benefited by enforcement of the covenant against the burdened property.

(e) The benefit of the covenant does not touch or concern real property in any other way.

(f) There is no privity of estate or privity of contract.

(g) The covenant can be or has been conveyed or assigned to a covenant holder.

(h) The covenant is an unreasonable restraint on alienability.

(i) The covenant is a clog on the equity of redemption.

(j) The covenant lacks adequate consideration.

(2) An affordable housing covenant is valid and enforceable even if the covenant violates the rule against perpetuities set forth in ORS 105.950 to 105.975.

(3) If a court denies equitable enforcement of an affordable housing covenant because of a change of circumstances that renders the covenant not in the public interest, the court may award damages as the only remedy in an action to enforce the affordable housing covenant.

(4) The court may not use a comparative economic test as a basis for a determination that an affordable housing covenant is not in the public interest. [2007 c.691 §6]

Note: See note under 456.270.

456.295 Action affecting covenant. An action affecting an affordable housing covenant may be commenced or intervened in by:

(1) The owner of an interest in the real property burdened by the covenant;

(2) An eligible covenant holder of the benefit of the covenant;

(3) A person that has a third-party right of enforcement; or

(4) A public body, as defined in ORS 174.109, in the jurisdiction of which the real property burdened by the covenant is located. [2007 c.691 §5]

Note: Section 9, chapter 691, Oregon Laws 2007, provides:

Sec. 9. (1) Sections 1 to 6 of this 2007 Act [456.270 to 456.295] apply to a covenant:

(a) Created under sections 1 to 6 of this 2007 Act on or after the effective date of this 2007 Act [January 1, 2008].

(b) Created before the effective date of this 2007 Act if the covenant would have been enforceable under sections 1 to 6 of this 2007 Act had it been created on or after the effective date of this 2007 Act.

(2) Sections 1 to 6 of this 2007 Act do not invalidate an otherwise enforceable affordable housing covenant, as defined in section 2 of this 2007 Act [456.270], created before, on or after the effective date of this 2007 Act. [2007 c.691 §9]

Note: See note under 456.270.

STATE AND LOCAL COOPERATION WITH HOUSING PROJECTS

456.305 Definitions for ORS 456.305 to 456.325. As used in ORS 456.305 to 456.325, unless the context requires otherwise:

(1) "Governing body" means the common council, county court, board of county commissioners, board or other body having

charge of the fiscal affairs of the state public body.

(2) "Housing project" means any work or undertaking of a housing authority pursuant to the Housing Authorities Law or any similar work or undertaking of the federal government.

(3) "State public body" means any city, town, county, municipality, commission, district, authority, other subdivision or public body of the state.

456.310 Purpose; additional powers. (1) It hereby is found and declared:

(a) That the assistance provided in ORS 456.315 and 456.320 for the remedying of the conditions set forth in the Housing Authorities Law is a matter of state concern and constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given.

(b) That it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or project.

(c) That ORS 456.305 to 456.325 are necessary in the public interest.

(2) The powers conferred by ORS 456.305 to 456.325 are in addition and supplemental to the powers conferred by any other law.

456.315 Powers of state public bodies in aiding or cooperating on housing projects. (1) For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(a) Dedicate, sell, convey or lease any of its property to a housing authority or the federal government.

(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it may otherwise undertake, to be furnished adjacent to or in connection with housing projects.

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it may otherwise undertake.

(d) Plan or replan, zone or rezone any part of such state public body and make exceptions from building regulations and ordinances. Any city or town also may change its map.

(e) Enter into agreements with a housing authority or the federal government respecting action to be taken by such state public body pursuant to any of the powers granted by ORS 456.305 to 456.325.

(f) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects.

(g) Purchase or legally invest in any of the bonds of a housing authority and exercise all the rights of any holder of such bonds.

(2) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(3) In connection with any public improvements made by a state public body in exercising the powers granted in this section, a state public body may incur the entire expense thereof. [Amended by 2003 c.14 §288]

456.320 Donations and loans to housing authority. (1) When any housing authority becomes authorized to transact business and exercise its powers, the governing body of the city, town or county, as the case may be, shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of the housing authority during the first year thereafter, and shall appropriate such amount to the authority out of any moneys in such city, town or county treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the authority as a donation.

(2) Any city, town, municipality or county located in whole or in part within the area of operation of a housing authority may lend or donate money to the authority or agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all loans made to it. The authority may enter into agreement with the donor setting forth the purposes for which the donation may be used and the conditions under which such donation must be restored to the donor. [Amended by 1977 c.341 §1]

456.325 Resolution to exercise powers. The exercise by a state public body of the powers granted in ORS 456.305 to 456.325 may be authorized by resolution of the gov-

erning body of such state public body adopted by a majority of the members of its governing body present at a meeting of the governing body. This resolution may be adopted at the meeting at which it is introduced. Such a resolution shall take effect immediately and need not be laid over or published or posted.

456.355 Definitions for ORS 456.355 to 456.370. As used in ORS 456.355 to 456.370, unless the context requires otherwise:

(1) "Governing body" means the governing body of any city or county.

(2) "Housing project" means any work or undertaking of a nonprofit sponsor, limited-dividend housing corporation or a for-profit developer meeting the requirements of subsection (5) of this section for the purpose of operating, rehabilitating or constructing decent, safe and sanitary housing for families and individuals who cannot obtain such shelter in the open market for 25 percent of the gross family income.

(3) "Nonprofit housing sponsor" means any corporation not for profit organized under the provisions of ORS chapter 65 for the purpose of undertaking, constructing or operating a housing project, or authorized by its charter to undertake, construct or operate a housing project.

(4) "Limited-dividend housing corporation" means any corporation that qualifies as such under the federal Housing and Urban Development Act of 1968.

(5) "For-profit developer" means a developer who agrees to rent housing units at below-market rent over a substantial period of time to households with income limits stipulated by the city or county.

(a) Proposals for such projects shall be solicited by appropriate direct and indirect invitation.

(b) Proposals received shall be measured against stated criteria, and reasons for the choices made shall be recorded.

(c) The financial stability of the developer shall be established to the satisfaction of the city or county.

(d) The Housing and Community Services Department shall review the documentation for paragraphs (a), (b) and (c) of this subsection for procedural compliance. The department may comment on the issue of benefits received against the benefits conferred, but it is not the intent of the legislature that the department shall substitute its judgment for that of the city or county in determining whether these benefits are in balance. [1969 c.185 §2; 1975 c.138 §1]

456.360 Purpose; additional powers. (1) It hereby is found and declared:

(a) That the assistance provided by ORS 456.365 for the remedying of the conditions set forth in the Housing Authorities Law is a matter of state concern and constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given.

(b) That it is a proper public purpose for any city or county to aid any housing project as defined in ORS 456.355 (2) operating within its boundaries or jurisdiction, as the city or county derives immediate benefits and advantages from such an authority or project.

(c) That ORS 456.355 to 456.370 are necessary in the public interest.

(2) The powers conferred by ORS 456.355 to 456.370 are in addition and supplemental to the powers conferred by any other law. [1969 c.185 §3; 1975 c.138 §2]

456.365 Powers of city or county in aiding or cooperating on housing projects. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects as defined in ORS 456.355 and located within the area in which it is authorized to act, any city or county may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its property.

(2) Cause park, playground, recreational, community, educational, water, sewer or drainage facilities, or any other works which it may otherwise undertake, to be furnished adjacent to or in connection with housing projects.

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan public streets, roads, roadways, alleys, sidewalks or other places which it may otherwise undertake.

(4) Plan or replan, zone or rezone any part of the area within such city or county and make exceptions from building regulations and ordinances. Any city also may change its map.

(5) Enter into agreements respecting action to be taken by such city or county pursuant to any of the powers granted by ORS 456.355 to 456.370.

(6) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects.

(7) In connection with any public improvements made by it in exercising the powers granted by this section, incur the entire expense thereof. [1969 c.185 §4; 1975 c.138 §3]

456.370 Exercise of powers; authorization by ordinance. The exercise by a city or county of the powers granted by ORS 456.355 to 456.370 may be authorized by ordinance of the governing body of the city or county adopted by a majority of the members of its governing body present at a meeting of the governing body. Persons particularly interested, and the general public, shall be given an opportunity to be heard at that meeting, and notice to the public of the time and place of said meeting and of the subject of the ordinance proposed for enactment shall be published in the same manner as required prior to final enactment of a zoning ordinance. The ordinance may be adopted or amended and adopted at such meeting, and if adopted shall take effect immediately and need not be laid over or published or posted. [1969 c.185 §5]

456.405 [Repealed by 1999 c.603 §38]

456.410 [Repealed by 1999 c.603 §38]

456.415 [Repealed by 1999 c.603 §38]

456.420 [Repealed by 1999 c.603 §38]

456.425 [Amended by 1995 c.445 §16; repealed by 1999 c.603 §38]

456.430 [Repealed by 1999 c.603 §38]

456.435 [Repealed by 1999 c.603 §38]

456.440 [Repealed by 1999 c.603 §38]

456.445 [Repealed by 1999 c.603 §38]

456.450 [Repealed by 1999 c.603 §38]

456.455 [Amended by 1967 c.451 §22; repealed by 1999 c.603 §38]

456.470 [1975 c.433 §1; repealed by 1975 c.433 §11]

456.472 [1975 c.433 §2; repealed by 1975 c.433 §11]

456.475 [1975 c.433 §3; repealed by 1975 c.433 §11]

456.477 [1975 c.433 §4; repealed by 1975 c.433 §11]

456.480 [1975 c.433 §5; repealed by 1975 c.433 §11]

456.482 [1975 c.433 §6; repealed by 1975 c.433 §11]

456.485 [1975 c.433 §7; repealed by 1975 c.433 §11]

456.487 [1975 c.433 §8; repealed by 1975 c.433 §11]

456.490 [1975 c.433 §9; repealed by 1975 c.433 §11]

456.492 [1975 c.433 §10; repealed by 1975 c.433 §11]

456.495 [1975 c.433 §11; repealed by 1975 c.433 §11]

VETERANS' LOCAL HOUSING

456.505 Veterans' housing by local agencies. Any lease, agreement or contract under chapter 420, Oregon Laws 1947, by and between any local agency or agencies and any authority or agency, federal or otherwise, providing housing facilities remains effective according to the instrument between the agencies concerned, notwithstanding the limitations of chapter 143, Oregon Laws 1949.

SUBSIDIZED DEVELOPMENT VISITABILITY

456.506 Findings. The Legislative Assembly finds and declares that:

(1) People with disabilities and senior citizens over 85 years of age are the fastest growing population in Oregon. The second fastest growing population in Oregon are the members of the massive baby boom generation, who will, as they age, demand services and accommodations at an unprecedented rate.

(2) The policy of this state is to encourage the design and construction of dwellings that enable easy access by individuals with mobility impairments and that are adaptable to allow continued use by aging occupants. [2003 c.431 §1]

Note: 456.506 to 456.514 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.508 Definitions for ORS 456.510 and 456.513. As used in ORS 456.510 and 456.513:

(1) "Accessible" means that housing complies with federal accessibility guidelines implementing the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601 et seq., as amended and in effect on January 1, 2004.

(2) "Common living space" means a living room, family room, dining room or kitchen.

(3) "Contiguous units" means units that are on the same tax lot or on contiguous tax lots that have a common boundary. Tax lots that are separated by a public road are contiguous tax lots for purposes of this subsection.

(4) "New" means that the housing being constructed did not previously exist in residential or nonresidential form. "New" does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(5) "Powder room" means a room containing at least a toilet and sink.

(6) "Rental housing" means a dwelling unit designed for nonowner occupancy under a tenancy typically lasting six months or longer.

(7) "Subsidized development" means housing that receives one or more of the following development subsidies from the Housing and Community Services Department:

(a) The federal low-income housing tax credit under 26 U.S.C. 42(a), if no part of the eligible basis prior to the application of 26 U.S.C. 42(i)(2)(B) was financed with an obligation described in 26 U.S.C. 42(h)(4)(A), all as amended and in effect on January 1, 2004;

(b) A farmworker housing tax credit, as described in ORS 315.164;

(c) A loan that qualifies the lending institution for a subsidized housing loan tax credit, as described in ORS 317.097;

(d) Funding under the federal HOME Investment Partnerships Act, 42 U.S.C. 12721 to 12839, as amended and in effect on January 1, 2004;

(e) Moneys from the Oregon Housing Fund created under ORS 458.620; or

(f) Moneys from other grant or tax incentive programs administered by the Housing and Community Services Department under ORS 456.559.

(8) "Visitable" means capable of being approached, entered and used by individuals with mobility impairments, including but not limited to individuals using wheelchairs. [2003 c.431 §2]

Note: See note under 456.506.

456.510 Visitability requirements. (1) Except as provided in this section and ORS 456.513, the Housing and Community Services Department may not provide funding for the development of new rental housing that is a subsidized development unless:

(a) Each dwelling unit of the housing meets the following requirements:

(A) At least one visitable exterior route leading to a dwelling unit entrance that is stepless and has a minimum clearance of 32 inches.

(B) One or more visitable routes between the visitable dwelling unit entrance and a visitable common living space.

(C) At least one visitable common living space.

(D) One or more visitable routes between the dwelling unit entrance and a powder room.

(E) A powder room doorway that is stepless and has a minimum clearance of 32 inches.

(F) A powder room with walls that are reinforced in a manner suitable for handrail installation.

(G) Light switches, electrical outlets and environmental controls that are at a reachable height.

(b) For a development that has a shared community room or that has 20 or more contiguous units, there is at least one powder room available for all tenants and guests that is accessible.

(2) For a multistory structure without an elevator, this section applies only to dwelling units on the ground floor of the structure.

(3) This section does not apply to farmworker housing located on a farm. [2003 c.431 §3]

Note: See note under 456.506.

456.513 Exemption from visitability requirements. The Housing and Community Services Department shall exempt new rental housing that is a subsidized development from compliance with the requirements of ORS 456.510 if the department determines that the exemption is warranted by:

(1) The topography at the construction site;

(2) Community and design standards;

(3) Undue costs or constraints; or

(4) Conflicting funding requirements of another government agency if the agency contributes a significant amount of financial aid for the housing. [2003 c.431 §4]

Note: See note under 456.506.

456.514 Rules. The Housing and Community Services Department shall adopt rules for implementing, administering and enforcing ORS 456.510 and 456.513. The department shall consult with advocacy groups representing affordable housing interests and advocacy groups representing individuals with mobility impairments prior to adopting rules under this section. [2003 c.431 §5]

Note: See note under 456.506.

HOUSING AND COMMUNITY SERVICES DEPARTMENT

(Definitions)

456.515 Definitions for ORS 456.515 to 456.725 and ORS chapter 458. As used in ORS 456.515 to 456.725 and ORS chapter 458 unless the context requires otherwise:

(1) "Community Action Partnership of Oregon" means an organization described in ORS 458.505.

(2) "Construction" includes, but is not limited to, new construction or moderate or substantial rehabilitation of existing structures or facilities.

(3) "Council" means the State Housing Council established under ORS 456.567.

(4) "Department" means the Housing and Community Services Department established under ORS 456.555.

(5) "Director" means the Director of the Housing and Community Services Department.

(6) "Elderly household" means a household whose head is over the age of 55, residing in this state.

(7) "Major life activity" includes but is not limited to self-care, ambulation, communication, transportation, education, socializa-

tion, employment and ability to acquire, rent or maintain property.

(8)(a) "Multifamily housing" means a structure or facility established primarily to provide housing that provides more than one living unit, and may also provide facilities that are functionally related and subordinate to the living units for use by the occupants in social, health, educational or recreational activities:

(A) For the elderly, including but not limited to individual living units within such structures, mobile home and manufactured dwelling parks and residential facilities licensed under ORS 443.400 to 443.455 and other congregate care facilities with or without domiciliary care.

(B) For persons with disabilities, including, but not limited to, individual living units within such structures, mobile home and manufactured dwelling parks and residential facilities licensed under ORS 443.400 to 443.455 and other congregate care facilities with or without domiciliary care.

(b) "Multifamily housing" does not include nursing homes, hospitals, places primarily engaged in recreational activities and single-family, detached dwellings, except manufactured dwellings situated in a mobile home and manufactured dwelling park.

(9) "Person with a disability" means a person who has a physical or mental impairment that substantially limits one or more major life activities.

(10) "Target population" means:

(a) Elderly households; or

(b) Persons with disabilities. [1977 c.485 §1; 1981 c.504 §1; 1981 c.695 §2; 1987 c.414 §14; 1989 c.224 §120; 1991 c.402 §3; 1991 c.739 §3; 1993 c.511 §1; 1995 c.79 §238; 1997 c.45 §1; 1999 c.59 §129; 2007 c.70 §258; 2007 c.607 §10; 2009 c.64 §1]

(Elderly and Disabled Housing Bonds)

456.519 General obligation bonds authorized. In order to provide funds for the purposes specified in Article XI-I(2) of the Oregon Constitution, including those specified in ORS 456.539, the Director of the Housing and Community Services Department may request the State Treasurer to issue bonds in accordance with the provisions of ORS chapter 286A. [1977 c.485 §2; 1981 c.660 §38; 1993 c.511 §2; 2007 c.783 §196]

456.524 [1977 c.485 §3; 1979 c.327 §18; repealed by 1981 c.660 §18]

456.527 [1977 c.485 §4; 1979 c.327 §19; repealed by 1981 c.660 §18]

456.530 Willingness to make residential loans factor in selecting depositaries. Notwithstanding ORS 293.721 and 293.726 and subject to the provisions of any agreement with holders of bonds issued pursuant to ORS 456.519 or 456.524 (1979 Replacement Part), the Housing and Community Services Department may consider the willingness or commitment of a lending institution as defined in ORS 456.548 to make loans for residential housing as a factor in selecting depositaries and otherwise investing funds held under ORS 456.515 to 456.725 in or through such lending institutions. [1981 c.504 §3; 1995 c.79 §239]

456.531 [1977 c.485 §5; repealed by 1981 c.660 §18]

456.535 Elderly and Disabled Housing Fund. The money realized from the sale of each issue of bonds shall be credited to a special fund in the State Treasury, separate and distinct from the General Fund, to be designated the Elderly and Disabled Housing Fund. Moneys in the Elderly and Disabled Housing Fund are continuously appropriated to the Housing and Community Services Department for the purpose of carrying out the provisions of ORS 456.515 to 456.725. Moneys in the fund may not be used for any other purpose, except that the moneys, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.820 and the earnings from the investments shall be deposited into the Elderly and Disabled Housing Sinking Fund maintained under ORS 456.543. [1977 c.485 §6; 1981 c.695 §3; 1995 c.79 §240; 2005 c.755 §41]

456.539 Administration of Elderly and Disabled Housing Fund; rules. (1) The Housing and Community Services Department shall be the agency for the State of Oregon for the administration of the Elderly and Disabled Housing Fund. Except as otherwise provided in ORS 456.515 to 456.725 the provisions of ORS 456.515 to 456.725 are applicable to the administration of the Elderly and Disabled Housing Fund.

(2) The department is authorized to use the Elderly and Disabled Housing Fund to advance funds, by contract, grant, loan or otherwise, as provided by Article XI-I(2) of the Oregon Constitution to finance multifamily housing for elderly households, persons with disabilities and their family members and such other persons who reside therein as are necessary to maintain the housing or provide services or companionship for elderly households and persons with disabilities.

(3) In carrying out the provisions specified in Article XI-I(2) of the Oregon Constitution, the department shall, with the concurrence of the State Housing Council, adopt criteria for approval of projects proposed by qualified housing sponsors to finance multifamily housing for the target population and their family members and such other persons who reside therein as are necessary to maintain the housing or provide

services or companionship for elderly households and persons with disabilities. The criteria shall:

(a) Assure that health, mental health and other supportive services as may be necessary to maintain elderly and disabled households living in the housing are available to the occupants onsite or in the community;

(b) Give priority to members of the target populations; and

(c) Allow occupancy by such family members or other persons as the department determines necessary to maintain the housing and provide services or companionship for elderly households and persons with disabilities.

(4) The department shall:

(a) Adopt criteria consistent with the maximum household income restrictions in ORS 456.620 (4) for approval of applications for financing the purchase by elderly households of ownership interests within a multifamily structure or facility.

(b) Provide means for allocating funds to finance multifamily housing units for the target population and to establish limitations on the interest and fees to be charged on loans made by the department.

(c) Adopt rules necessary for efficient administration of the Elderly and Disabled Housing Fund.

(d) Adopt rules to assure that each of the target populations has access to a reasonable portion of the bond authority under ORS 456.515 to 456.725, and that a reasonable portion of the funds for elderly households is made available to finance the purchase by elderly households of ownership interests within multifamily housing structures or facilities.

(5) Loans made by the department under this section for the interim construction financing of multifamily housing shall be subject to the provisions of ORS 456.717. [1977 c.485 §7; 1979 c.327 §20; 1981 c.504 §4; 1981 c.695 §4; 1993 c.1 §2; 1993 c.511 §3; 1995 c.79 §241; 2007 c.70 §259; 2007 c.607 §11]

456.541 Project applications for housing serving persons with disabilities. The Housing and Community Services Department shall and the State Housing Council may consult generally with the Department of Human Services and such other persons as the council or Housing and Community Services Department may consider appropriate concerning project applications for housing for disabled households. The Housing and Community Services Department shall seek comment on such project applications concerning:

(1) The need for and design of the project generally, considering the proposed location of the housing;

(2) The means proposed for screening eligibility for occupancy to assure that priority will be given to members of the target populations of persons with disabilities; and

(3) The adequacy of the provisions for assuring the availability of health, mental health and other supportive services necessary to maintain disabled households in the housing. [1981 c.695 §6; 1991 c.739 §10; 2001 c.900 §201; 2007 c.70 §260]

456.543 Elderly and Disabled Housing Sinking Fund. (1) The Housing and Community Services Department shall maintain, with the State Treasurer, an Elderly and Disabled Housing Sinking Fund, separate and distinct from the General Fund. The Elderly and Disabled Housing Sinking Fund shall provide for the payment of the principal and interest upon bonds issued under authority of Article XI-I(2), Oregon Constitution, and ORS 456.515 to 456.725. Moneys in the sinking fund are continuously appropriated to the department for such purpose. Moneys in the Elderly and Disabled Housing Sinking Fund may be invested by the State Treasurer as provided by ORS 286A.025 and 293.701 to 293.820 or, with the approval of the State Treasurer, by the Director of the Housing and Community Services Department through a trustee. Investment earnings shall be credited to the Elderly and Disabled Housing Sinking Fund.

(2) The Elderly and Disabled Housing Sinking Fund shall consist of:

(a) All moneys received from contract or loan proceeds;

(b) Bond reserves;

(c) Other funds available for these purposes; and

(d) If necessary, state ad valorem taxes provided by Article XI-I(2), Oregon Constitution, and by ORS 456.515 to 456.725.

(3) The Elderly and Disabled Housing Sinking Fund shall not be used for any purpose other than that for which the fund was created provided, however, that amounts on deposit in the fund may be applied to the payment of operating and administrative expenses of the department, including bond issuance, administration and repayment costs, allocable to its elderly and disabled housing program under ORS 456.515 to 456.725, and for transfers under subsections (4) and (5) of this section. Should a balance remain therein after the purposes for which the fund was created have been fulfilled or after a reserve sufficient to meet all existing obligations and liabilities of the fund has been set aside, the surplus remaining may be transferred to the

Elderly and Disabled Housing Fund at the direction of the department.

(4) The Director of the Housing and Community Services Department may transfer moneys from the Elderly and Disabled Housing Sinking Fund, with the approval of the State Treasurer, for the purpose of financing multifamily housing for the elderly and persons with disabilities. The State Treasurer shall approve such request if:

(a) The cash flow projection under ORS 286A.010 associated with the bonds shows that, for the term of the bonds outstanding at the time the director transfers the moneys, remaining moneys in the sinking fund, together with expected loan proceeds and fund earnings, will continue to be adequate to pay bond principal, interest and administrative costs; and

(b) The transfer will not create the need for issuance of any bonds.

(5) The director shall deposit loan prepayments in the Elderly and Disabled Housing Fund, and lend such prepayments for the purpose of financing multifamily housing for the elderly and persons with disabilities for a term not exceeding the term of the bonds associated with the loan that was prepaid, if the director determines that such a deposit and loan will not adversely affect the ability of the department to pay outstanding bonds. [1977 c.485 §8; 1979 c.327 §21; 1981 c.695 §7; 1991 c.357 §1; 1995 c.79 §242; 2005 c.755 §42; 2007 c.70 §261; 2007 c.783 §197]

456.547 Assistance, grants and gifts to department for housing purposes. The Housing and Community Services Department may accept assistance, grants and gifts, in the form of money, land, services or any other thing of value from the United States or any of its agencies, or from other persons, for any of the purposes contemplated by Article XI-I(2) of the Oregon Constitution and by ORS 456.515 to 456.725 and ORS chapter 458. Unless enjoined by the terms and conditions of any such gift or grant, the department may convert the same or any of them into money through sale or other disposal thereof. [1977 c.485 §9; 1995 c.79 §243]

(Administration)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Project cost" or "costs of the project" means the sum of all reasonable expenses incurred by a qualified housing

sponsor in undertaking and completing a housing project approved by the department. "Project costs" or "costs of the project" include but are not limited to the expenses incurred by a qualified housing sponsor for:

(a) Studies and surveys;

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

(c) Legal, organizational and other special services;

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

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

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

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

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

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

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

(16) "Qualified housing sponsor" includes, subject to the approval of the department:

(a) A consumer housing cooperative;

(b) A limited dividend housing sponsor;

(c) A nonprofit housing corporation;

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

(e) A housing authority created by ORS 456.075;

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

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

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

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

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

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

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

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

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

(19) "Revolving account" means the Housing and Community Services Department Revolving Account created in ORS 456.574. [Formerly 456.615; 2009 c.541 §21]

456.550 Policy. (1) There exists in this state a seriously inadequate supply of and a pressing need for safe and sanitary dwelling accommodations within the financial means of persons and families of lower income, including but not limited to persons and families displaced by the clearing of slums and blighted areas or by other public programs;

(2) Private lending institutions have been and will continue to be unable to provide necessary financial support for lower income housing and the resulting shortage of financing has been in whole or in part responsible for the shortage of lower income housing;

(3) It is a valid public purpose to provide for the construction, rehabilitation, purchase, leasing and refinancing of housing for such persons and families who would otherwise be unable to obtain adequate dwelling accom-

modations which they could afford and to aid in the acquisition of land for present or future developments including such housing accommodations;

(4) It is further found that the authority and powers conferred by ORS 456.548 to 456.725 and ORS chapter 458 upon the Housing and Community Services Department and the Director of the Housing and Community Services Department constitute a necessary public program and serve a valid public purpose;

(5) To stimulate and increase the supply of housing for persons and families of lower income it is necessary that a central source of housing information, planning, educational services and technical assistance and a revolving fund be established. The Housing and Community Services Department shall be that central source in this state;

(6) It is the policy of this state to increase the amount of and improve the condition of low and moderate income housing by investing in developing local capacity to build, rehabilitate and manage housing. A primary vehicle for building such capacity is the formation and expansion of community development corporations; and

(7) In that the farmworkers in this state benefit the social and economic welfare of all of the people in Oregon by their unceasing efforts to bring a bountiful crop to market, the Legislative Assembly declares that it is the policy of this state to ensure adequate accommodations commensurate with the housing needs of Oregon's farm workers that meet decent health, safety and welfare standards. To accomplish this objective in the interest of all of the people in this state, it is necessary that:

(a) Every state and local government agency that has powers, functions or duties with respect to housing, land use or enforcing health, safety or welfare standards, under this or any other law, shall exercise its powers, functions or duties consistently with state policy and in a manner that will facilitate sustained progress in attaining the objectives established;

(b) Every state and local government agency with jurisdiction over farmworker activities must make every effort to alleviate insanitary, unsafe and overcrowded accommodations;

(c) Special efforts should be directed toward mitigating hazards to families and children; and

(d) Accommodations must be designed to provide for the rights of free association to seasonal farmworkers. [1971 c.505 §1; 1973 c.828 §1; 1973 c.832 §3; 1975 c.154 §7; 1989 c.1030 §5; 1995 c.79 §244; 2001 c.625 §4]

456.553 [1989 c.307 §1 (enacted in lieu of 456.554); repealed by 1991 c.739 §1 (456.555 enacted in lieu of 456.553)]

456.554 [Formerly 456.560; 1987 c.414 §15; repealed by 1989 c.307 §2 (456.553 enacted in lieu of 456.554)]

456.555 Housing and Community Services Department established; appointment of director; duties of housing council and community action partnership; rules; fees. (1) The Housing and Community Services Department is established.

(2) The department shall be under the supervision and control of 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 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 State Housing 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; and

(c) Carry out the provisions of ORS 456.571.

(6) The Community Action Partnership of Oregon shall advise the department and the council on community services programs as determined by the director and as set forth in ORS 458.505.

(7) The director shall report regularly to the council to keep the council informed on progress made by the department in carrying out the department's responsibilities for housing programs.

(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) 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.

(10) 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. [1991 c.739 §2 (enacted in lieu of 456.553); 1995 c.79 §245; 2005 c.74 §3; 2007 c.607 §12; 2009 c.61 §1; 2009 c.64 §2]

456.559 Powers and duties of department. (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) 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.

(c) Subject to the approval of the State Housing 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.

(d) 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.

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

(f) 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.

(g) 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.

(h) 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.

(i) 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 mental retardation, developmental disabilities or mental or emotional disturbances.

(2) Except as otherwise provided in ORS 456.625 (7), 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 pursuant to 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 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. [Formerly 456.570; 1987 c.158 §86a; 1987 c.414 §15a; 1987 c.567 §1; 1989 c.307 §3; 1989 c.966 §50; 1991 c.739 §4; 1995 c.79 §246; 2007 c.70 §262]

456.560 [1971 c.505 §2; renumbered 456.554]

456.561 Loans, grants and funding awards; review. (1) The Housing and Community Services Department may effect loans, grants and other funding awards to accomplish department housing programs, subject to any requirement under this section for review and approval by the State Housing Council of proposals for loans, grants or other funding awards.

(2) The department shall submit a loan, grant or other funding award proposal arising under ORS 456.515 to 456.725 programs to the council for review if the proposal is for:

(a) A housing loan on property that has a purchase price in excess of an applicable threshold property purchase price established by rule under ORS 456.555 (9); or

(b) A housing grant or other housing funding award in excess of an applicable threshold amount established by rule under ORS 456.555 (10).

(3) The council shall review each loan, grant or other funding award proposal submitted by the department under this section and approve or disapprove the loan, grant or other funding award proposal.

(4) Council review of loan, grant or other funding award proposals under this section shall be held at a public hearing of the council. The council meeting notice required by ORS 192.640 shall include notice of the loan, grant or other funding award proposal review, the names of the applicants and the subject of the loan, grant or funding award proposal. The council shall provide notice of a loan, grant or other funding award proposal review to the loan, grant or other funding award applicant not less than five days before the review hearing. [2005 c.74 §2; 2009 c.61 §2]

Note: 456.561 was added to and made a part of 456.515 to 456.725 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

456.562 Department intellectual property; fees. (1) As used in this section:

(a) "Intellectual property" means computer programs, software, software tools and data.

(b) "Person" means a person as defined in ORS 174.100, a federal, state or local government body, a Native American tribe or an agent or representative of a tribe.

(2) Subject to any superior patent rights or copyrights, the Housing and Community Services Department may license, share or otherwise provide for the use by a person of intellectual property acquired or developed by the department.

(3) Except as provided in this subsection, the department may charge reasonable fees for licensing, sharing or otherwise providing for the use of intellectual property under subsection (2) of this section. The department may not charge a fee under this subsection to a federal, state or local government body. Moneys from the fees are continuously appropriated to the department for the purpose of acquiring, developing or providing for the use of intellectual property.

(4) The department may take actions that the department deems necessary and appropriate to carry out the authority granted under this section, including but not limited to applying for patents or copyright registration to perfect or preserve the department's rights in intellectual property.

(5) ORS 291.042 does not apply to intellectual property or fees described in this section. [2003 c.605 §1]

Note: 456.562 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.563 [Formerly 456.580; repealed by 1989 c.307 §8]

456.565 Powers of director. The Director of the Housing and Community Services Department, in addition to the director's other powers, shall have the power, subject to the applicable provisions of the State Personnel Relations Law, to appoint all subordinate officers and employees of the Housing and Community Services Department and prescribe their duties and fix their compensation. [1991 c.739 §13]

456.567 State Housing Council; appointment; term; officers; compensation; staff; budget duties. (1) The State Housing Council is established. The council shall consist of seven members appointed by the Governor subject to confirmation by the Senate under ORS 171.562 and 171.565.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to be immediately effective for the unexpired term.

(3) The Governor shall appoint the chairperson of the council.

(4) The members of the council are entitled to compensation and expenses as provided in ORS 292.495.

(5) The Director of the Housing and Community Services Department shall provide clerical and other necessary support services to the council.

(6) The council shall advise the Housing and Community Services Department regarding the department's biennial budget proposal prior to its submittal to the Oregon Department of Administrative Services. The council's budget advice shall be limited to personnel, materials and services, and capital outlay items necessary to implement housing programs. [Formerly 456.590; 1987 c.414 §16; 1989 c.307 §4; 1991 c.739 §5]

456.569 Authority of Housing and Community Services Department to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Housing and Community Services Department may require the fingerprints of a person who:

(1)(a) Is employed or applying for employment by the department; or

(b) Provides services or seeks to provide services to the department as a contractor, vendor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information that state or federal laws, rules or regulations prohibit disclosing or define as confidential;

(c) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;

(d) That has mailroom duties as a primary duty or job function;

(e) In which the person has responsibility for auditing the department or other business entities;

(f) That has personnel or human resources functions as a primary responsibility;

(g) In which the person has access to Social Security numbers, dates of birth or criminal background information of employees or members of the public; or

(h) In which the person has access to tax or financial information about individuals or business entities or processes tax credits. [2007 c.619 §7]

Note: 456.569 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.570 [1971 c.505 §§4,5; 1973 c.828 §2; 1973 c.832 §4; 1979 c.327 §28; renumbered 456.559]

456.571 Powers and duties of council. (1) The State Housing Council shall, with the advice of the Director of the Housing and Community Services Department, develop policies to aid in stimulating and increasing the supply of housing for persons and families of lower income.

(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. [Formerly 456.600; 1989 c.307 §5; 1991 c.62 §2; 1991 c.739 §6; 1995 c.279 §1; 1999 c.1074 §2; 2005 c.74 §4; 2007 c.607 §13]

456.572 State housing plan; contents; annual update. (1) The Housing and Community Services Department shall develop a comprehensive state plan for responding to the needs of very low income, low income and moderate income Oregonians for housing and services, with the goal of providing affordable housing. The Housing and Community Services Department shall insure that the development, annual updating and implementation of this plan involve substantial interagency coordination among appropriate federal, state and local entities.

(2) The state housing plan shall contain, at a minimum:

(a) Information on market and inventory conditions including, but not limited to, population trends, household composition, housing conditions and an inventory of assisted housing and public housing;

(b) A needs assessment that summarizes data on the housing needs of homeless and income-eligible families and includes a five-year projection;

(c) Strategies for a five-year period based upon a review of need and conditions including, but not limited to, investment priorities, local and state policies, local institutional structure and local activities for public housing resident management and ownership;

(d) A review of resources including, but not limited to, private, federal and nonfederal resources, tax credits and a summary table of anticipated funding from each federal program and any state or local resources available to meet matching requirements;

(e) A plan for coordination of resources reviewed under paragraph (d) of this subsection; and

(f) An implementation program translating the five-year strategy and resource review into plans and goals for the number of families to be assisted each year, specifying plans for homeless assistance and setting forth details on monitoring, fair housing and relocation.

(3) Before issuing the state housing plan, and before each annual update of that plan, the Housing and Community Services Department shall hold at least one public hearing to receive comments from public and private interests. [1991 c.600 §3]

456.574 Housing and Community Services Department Revolving Account; use of moneys; appropriation. (1) There is created in the General Fund of the State Treasury the Housing and Community Services Department Revolving Account. All moneys deposited in the account 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 amounts not to exceed $250,000 from funds available to the department. Such funds hereby are continuously appropriated for:

(a) The making of advances under ORS 456.559 (1)(c) or 456.710; and

(b) The use by the department in the payment of 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 be repaid by the department into the revolving account 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. [Formerly 456.610; 1987 c.414 §17; 1991 c.62 §3; 1991 c.739 §12; 1993 c.793 §1; 1995 c.79 §247]

456.576 Self-Sufficiency Housing Fund. (1) The Housing and Community Services Department Self-Sufficiency Housing Fund is established separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department

Self-Sufficiency Housing Fund shall be credited to the fund.

(2) Net proceeds of lottery bonds issued pursuant to section 4, chapter 746, Oregon Laws 2007, shall be deposited into the Housing and Community Services Department Self-Sufficiency Housing Fund. Moneys in the fund are continuously appropriated to the Housing and Community Services Department for providing housing to populations at risk of homelessness. [2007 c.746 §5]

Note: 456.576 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.578 Use of funds; petty cash fund. (1) Subject to other applicable laws and agreements entered into with bondholders, amounts received by, or appropriated to, the Housing and Community Services Department may be applied to funds and accounts as the Director of the Housing and Community Services Department determines necessary or appropriate for the payment of expenses of programs administered by the department and to provide reserves against losses and security for bonds. All amounts deposited in the funds or accounts administered by the department under ORS 456.515 to 456.725 and ORS chapter 458, are continuously appropriated for the purposes of ORS 456.515 to 456.725 and ORS chapter 458.

(2) The Housing and Community Services Department may establish and maintain a petty cash fund, in an amount not to exceed $300, for the purpose of paying minor incidental expenses in the administration of the department. [1979 c.327 §25; subsection (2) enacted as 1993 c.512 §7; 1995 c.79 §248; 2001 c.738 §5]

456.579 Mobile Home Parks Purchase Account; restrictions; other funds. (1) There is established separate and distinct from the General Fund an account to be known as the Mobile Home Parks Purchase Account. Except as otherwise provided by law, all moneys appropriated or credited to the Mobile Home Parks Purchase Account are appropriated continuously for and shall be used by the Director of the Housing and Community Services Department for the purpose of carrying out the duties and responsibilities imposed upon the Housing and Community Services Department under ORS 90.100, 90.630, 90.760, 90.800 to 90.840, 308.905, 446.003 and 456.581 and this section. Interest earned on the account shall be credited to the account.

(2) Except for loans provided in ORS 90.840, the account described in subsection (1) of this section shall not be connected to or commingled in any way with the funds described in ORS 456.720.

(3) For the purpose of carrying out the provisions of ORS 90.100, 90.630, 90.760, 90.800 to 90.840, 308.905, 446.003 and 456.581 and this section, the Housing and Community Services Department may seek funds from sources other than that described in ORS 308.905 (1). Such funds shall be credited to the Mobile Home Parks Purchase Account. [1989 c.919 §4; 1995 c.559 §55; 2007 c.217 §4]

456.580 [1971 c.505 §3; 1979 c.327 §1; renumbered 456.563]

456.581 Mobile Home Parks Purchase Account; use; rules. The Mobile Home Parks Purchase Account established in ORS 456.579 shall be used by the Housing and Community Services Department to provide:

(1) Technical assistance to tenants' associations, manufactured dwelling park nonprofit cooperatives and tenants' association supported nonprofit organizations and to facility purchase associations, as defined in ORS 90.100, and to help tenants in activities related to the purchase or preservation of a mobile home park or manufactured dwelling park by a tenants' association, manufactured dwelling park nonprofit cooperative, tenants' association supported nonprofit organization or facility purchase association.

(2) By rule, loans for initial costs for purchasing a mobile home park or manufactured dwelling park that the department determines has a significant percentage of residents who are persons of lower income. Loans provided under this section may be made only if the department is of the opinion that the purchase is economically feasible and only to:

(a) A tenants' association, manufactured dwelling park nonprofit cooperative or a tenants' association supported nonprofit organization; or

(b) A facility purchase association established pursuant to ORS 90.815 that includes more than 50 percent of the tenants residing in the park. [1989 c.919 §2; 1999 c.222 §3; 2007 c.607 §14]

456.582 Prohibited acts; civil penalty. (1) No person, either personally or by an agent, shall:

(a) Make any material omission or false statement in the application for a single-family residential loan financed by the Housing and Community Services Department; or

(b) Sell, rent or fail to occupy as a primary residence a single-family residence subject to an outstanding residential loan financed by the Housing and Community Services Department without the express written permission of the Housing and Community Services Department.

(2) In addition to any other penalties provided by law and in addition to any other powers of the Director of the Housing and Community Services Department, the director may impose a civil penalty for violation of any of the provisions of subsection (1) of this section. No civil penalty shall exceed $5,000 per violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) All penalties recovered shall be paid into the Housing Finance Fund established under ORS 456.720. [1979 c.327 §§23,24; 1989 c.706 §16; 1991 c.734 §31]

456.585 Farmworker housing information. The Housing and Community Services Department shall serve as the primary state agency for farmworker housing information. The department shall perform the following duties related to farmworker housing information:

(1) Develop an information center for farmworker housing financing information. The department shall consult with private organizations and the Farmworker Housing Facilitation Team established pursuant to subsection (3) of this section in developing and operating the information center. The information center shall include provision for access by the Internet.

(2) To the extent practicable, simplify the application process for funding farmworker housing projects.

(3) Establish a Farmworker Housing Facilitation Team to provide an ongoing discussion forum for state and local government agencies that are involved with farmworker housing. Team members shall include the Housing and Community Services Department, the Occupational Safety and Health Division, the State Department of Agriculture, the Department of Land Conservation and Development, the Employment Department and the Oregon State University Extension Service. The Housing and Community Services Department shall also invite Rural Development and the Farm Service Agency of the United States Department of Agriculture, the United States Department of Labor, local planning agencies and other interested persons to be members of the team.

(4) Ensure that homeowner assistance programs engage in outreach efforts to contact farmworkers.

(5) Promote the establishment and use of individual development accounts by farmworkers and others.

(6) Use a statewide map of crop diversity to determine housing needs, and facilitate the development of farmworker housing in appropriate locations.

(7) Look at creative ways to provide housing, including but not limited to timeshare housing, cooperative housing, mobile and portable housing and modular housing.

(8) Work with private businesses, state agencies and nonprofit organizations to maximize the development of farmworker housing.

(9) To the extent practicable, refer housing-based conflicts to dispute resolution processes. [2001 c.625 §1; 2007 c.71 §141]

Note: 456.585 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.587 Electricity Public Purpose Charge Fund; Low-Income Electric Bill Payment Assistance Fund. (1) The Housing and Community Services Department Electricity Public Purpose Charge Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department Electricity Public Purpose Charge Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Housing and Community Services Department to be used for purposes specified in ORS 757.612 (3)(b)(D).

(2) The Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Housing and Community Services Department Low-Income Electric Bill Payment Assistance Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Housing and Community Services Department for purposes described in ORS 757.612 (7). [2007 c.217 §8]

Note: 456.587 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Portland Single-Family Housing)

456.589 Legislative findings. The Legislative Assembly finds that cities with a population of 300,000 or more suffer from a lack of available mortgage financing for the purchase of single-family homes in the core and inner areas of those cities. There is a need for low-cost mortgage financing for single-family home purchasers in order to prevent urban decay and blight and to promote the economic well being of those core and inner areas. [1979 c.327 §30]

456.590 [1971 c.505 §6; 1979 c.327 §2; renumbered 456.567]

456.593 Use of bonds for single-family home loans in Portland; amount; income and area limits; fees and charges. (1) As used in this section, unless the context requires otherwise, "city" means any city with a population of 300,000 or more.

(2) Notwithstanding any of the provisions of ORS 456.548 to 456.725 to the contrary:

(a) Of the $2.5 billion bond authorization under ORS 456.661, the aggregate principal amount of not to exceed $30 million is to be made available exclusively for making or participating in making residential loans for detached single-family homes, including lots described in ORS 92.840, in any city.

(b) The bonds under paragraph (a) of this subsection may be sold as a part of the Housing and Community Services Department's overall nongeneral obligation bond issues under ORS 456.548 to 456.725, or separate issues totaling no more than $30 million in an aggregate principal amount may be sold by the department as required and requested by a city. The bonds need not be identified by individual loans or transactions but may include any number of individual loans or transactions or purposes within any single issue.

(c) The department may use moneys received under paragraph (b) of this subsection to purchase, service, sell and make commitments to purchase, service and sell residential loans meeting all of the requirements of this paragraph. The loans must be:

(A) Originated by private lending institutions or any individual or organization authorized by law to make those loans, for residential housing;

(B) For owner-occupied detached single-family housing, which may include but is not limited to lots described in ORS 92.840;

(C) For properties located within an area of a city where the median income is below the city's median family income; and

(D) To persons whose annual income for the current and the immediately preceding year does not exceed 105 percent of the prevailing median income for families within that city.

(d) Areas eligible under paragraph (c) of this subsection shall be identified by ordinance of the governing body of that city. That city shall have sole discretion to designate one or more of those areas, and the proportionate or approximate actual amount of single-family residential loans to be made in those areas.

(e) Fees or charges pursuant to ORS 456.625 (3) shall be assessed or collected in connection with, or for, any loan, advance, insurance, loan commitments or servicing, by the department under this section only after consultation with the city. [1979 c.327 §§31,32; 1981 c.504 §5; 1995 c.79 §249; 1999 c.698 §1; 2003 c.743 §1; 2005 c.643 §1; 2007 c.607 §15]

456.600 [1971 c.505 §7; 1977 c.98 §1; 1979 c.327 §17; renumbered 456.571]

(Mortgage Credit Certificates)

456.605 Mortgage credit certificate program. (1) The Housing and Community Services Department may establish and implement mortgage credit certificate programs to make available income tax credits for indebtedness incurred on acquisition, improvement or rehabilitation of a principal residence. Under this program, the department may issue tax credit certificates to persons and families with incomes equal to or lower than the median family income as calculated under ORS 456.620 (4).

(2) If the department elects to issue federal income tax credit certificates, the director shall certify that each mortgage credit certificate program meets the requirements of Section 25 of the Internal Revenue Code as amended and in effect on December 31, 1996. The department shall make the determination of the amount of qualified mortgage bonds that will not be issued so as to allow the issuance of mortgage credit certificates.

(3) If the Director of the Housing and Community Services Department determines that the mortgage credit certificate program is not effective with the median family income limitation established in subsection (1) of this section, the director may issue tax credit certificates to persons and families with incomes up to a percent of median family income determined appropriate by the Emergency Board, if the person or families otherwise qualify for the program. [1985 c.501 §2; 1995 c.556 §44; 1997 c.839 §67]

456.610 [1971 c.505 §10; 1973 c.828 §28; 1979 c.327 §3; renumbered 456.574]

(Financing of Low-Income Housing)

456.612 Declaration of financing purpose. The Legislative Assembly finds and declares that the primary purpose of financing by the Housing and Community Services Department is to provide affordable housing for persons and families of lower income. [2001 c.738 §1; 2007 c.607 §16]

Note: 456.612 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.615 [1973 c.828 §4; 1975 c.154 §1; 1979 c.60 §1; 1979 c.327 §4; 1981 c.504 §6; 1981 c.691 §1; 1987 c.414 §18; 1991 c.738 §1; 1991 c.739 §9; 1995 c.79 §250; 1997 c.302 §1; 2001 c.738 §2; 2003 c.743 §2; 2007 c.607 §17; 2007 c.783 §232e; renumbered 456.548 in 2007]

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

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

(2) Adopt criteria for the approval of qualified housing sponsors in ORS 456.548 to 456.725.

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

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

(5) With the approval of the council, ensure that financing is provided in the department's programs for manufactured housing and for the purchase of lots described in ORS 92.840 by manufactured dwelling park tenants. [1973 c.828 §5; 1979 c.60 §2; 1979 c.327 §5; 1985 c.501 §4; 1991 c.739 §11; 1993 c.511 §4; 1995 c.79 §251; 1995 c.735 §1; 2001 c.738 §3; 2003 c.743 §3]

456.623 Project funding notification registry. (1) The Housing and Community Services Department shall establish a registry system for persons requesting to be notified when department-proposed funding awards are contemplated for multifamily housing projects.

(2) Any person may register with the department to receive the notification described in subsection (1) of this section. A person may request notification for multifamily housing projects on a statewide basis or may limit the request to projects within specific areas of the state as identified by the department. The department may charge a reasonable fee for the registration.

(3) If the department proposes funding for a multifamily housing project, the department shall send written notice of the funding proposal to all persons who are at that time registered to receive the notice under this section. The department may send notice to persons the department believes may be interested but who are not registered to receive notice. The department shall not proceed with awarding funding for a multifamily housing project prior to the 30th day after the sending of notice to all persons entitled under this subsection to notice of the funding proposal.

(4) Notice sent under this section shall be limited to stating the deadline for filing comments and the type of housing, number of units, sponsor and location of the proposed project. The notice shall not include any information made exempt from public disclosure under ORS 192.502 (24).

(5) During the period after the department proposes funding for a multifamily housing project and prior to the department proceeding with awarding the funding, any interested person may file comments regarding the project with the department.

(6) At the discretion of the Director of the Housing and Community Services Department, the department may conduct a market study or take other actions in response to comments filed in regard to multifamily housing projects proposed for funding.

(7) Subsections (3), (5) and (6) of this section apply only to multifamily housing project funding for construction, acquisition or rehabilitation loans, grants or tax program awards that otherwise do not include an independently prepared, project-specific market study as part of the department review, approval or underwriting process.

(8) As used in this section, "housing project" has the meaning given that term in ORS 456.065. [1999 c.471 §1; 2007 c.152 §4]

Note: 456.623 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.625 Powers of department; status of terms of project use contained in recorded instruments. 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 State Housing 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 enjoy-

ment 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 to be a necessary or prudent reserve. [1973 c.828 §6; 1975 c.154 §8; 1979 c.60 §3; 1979 c.327 §6; 1981 c.504 §7; 1981 c.691 §2; 1983 c.519 §2; 1985 c.501 §3; 1987 c.567 §2; 1989 c.307 §6; 1991 c.739 §7; 1995 c.79 §252; 1999 c.1074 §3; 2001 c.738 §4; 2007 c.607 §18; 2007 c.783 §199; 2010 c.4 §1]

456.627 Legislative finding on availability of single-family residential loans. Notwithstanding the provisions of ORS 456.625 (7), the Housing and Community Services Department shall 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. [1981 c.504 §12; 1995 c.79 §253]

456.630 Services to qualified sponsors and institutions. The Housing and Community Services Department may provide qualified housing sponsors and lending institutions with advisory, consultative training and educational services as necessary to assist those sponsors. For purposes of this section, advisory and other services include, but are not limited to:

(1) Technical and professional planning assistance;

(2) Technical assistance for forming and operating manufactured dwelling park nonprofit cooperatives;

(3) Preparation and promulgation of organizational planning and development guidelines;

(4) Consultation services;

(5) Training courses, seminars and lectures; and

(6) Other services or materials for assistance of qualified housing sponsors in the planning, development and management of housing projects under ORS 456.548 to 456.725. [1973 c.828 §7; 1995 c.79 §254; 2007 c.607 §19]

456.635 Commitments on residential loans. (1) In order to provide additional permanent financing for housing for persons and families of lower income and for manufactured dwelling park tenant purchases of lots described in ORS 92.840, the Housing and Community Services Department may make commitments to purchase and purchase, insure, service and sell residential loans held by lending institutions for persons and families of lower income in this state and for manufactured dwelling park tenant purchases of lots described in ORS 92.840. The department may purchase from lending institutions securities backed by residential loans.

(2) Any commitment made by the department subject to subsection (1) of this section shall be based upon an agreement with the lending institution that the proceeds received by the lending institution from the sale of such loans to the department shall be used by the lending institution only for the financing of residential housing for persons and families of lower income in this state, including the financing of newly originated residential loans, or for the financing of loans for the purchase of lots described in ORS 92.840 by manufactured dwelling park tenants, provided the loans are made after the date of the department's commitment. [1973 c.828 §8; 1979 c.60 §4; 1979 c.327 §7; 2003 c.743 §4]

456.640 Purchase of residential loans. (1) The Housing and Community Services Department shall prescribe a form for the application by a lending institution for the purchase of newly originated or other existing residential loans by the department under ORS 456.635.

(2) Prior to the submission by it of an application for the purchase by the department of existing residential loans under ORS 456.635, a lending institution may request the reservation by the department of funds.

(3) The department may grant a reservation of funds in such amount and subject to such conditions as it considers necessary under ORS 456.548 to 456.725.

(4) Upon the decision by the department to purchase residential loans under ORS 456.635, the department shall issue a binding letter of commitment subject to such terms and conditions as the department considers necessary. The letter of commitment shall be binding upon the department as of the date of its execution subject to the terms and conditions, if any, included therein. [1973 c.828 §§9,10; 1979 c.60 §5; 1979 c.327 §8; 1995 c.79 §255]

456.645 Revenue bonds. (1) The State Treasurer, at the request of the Housing and Community Services Department, from time to time, may issue and sell bonds in the name of and on behalf of the State of Oregon in compliance with the applicable provisions of ORS chapter 286A in the principal amount the department considers necessary to carry out the purposes of ORS 456.548 to 456.725, or for paying or refunding any bonds previously issued by the department for such purposes.

(2) All bonds shall be special revenue obligations of the State of Oregon, and, unless paid from the proceeds of other bonds, shall be payable as to principal, redemption premium, if any, and interest, solely from the revenues, assets or funds in the Housing Finance Fund as may be pledged therefor, subject to existing agreements with the holders of any bonds, in accordance with any housing finance bond declaration. Bonds may be paid from any source available under ORS 456.515 to 456.725, including but not limited to:

(a) From the income and revenues of the housing project or projects financed with the proceeds from the sale of such bonds or with such proceeds together with other moneys available to the department under ORS 456.548 to 456.725 or other moneys or grants from the federal government in aid of such projects.

(b) From the income and revenues of certain designated housing projects, whether or not financed with the proceeds from the sale of such bonds, if such housing projects were financed with moneys available to the department under ORS 456.515 to 456.725.

(c) From funds held in a capital or other reserve account.

(d) From such other funds as deemed adequate in fulfilling the purposes of ORS 456.515 to 456.725.

(e) From the revenues of the department under ORS 456.515 to 456.725, generally.

(3) The department shall maintain accounting records and shall prepare annual financial statements for distribution to existing and potential bond purchasers. [1973 c.828 §11; 1975 c.154 §2; 1979 c.327 §9; 1981 c.660 §39; 1983 c.519 §3; 1995 c.79 §256; 2007 c.783 §200]

456.650 [1973 c.828 §12; 1981 c.660 §40; 1983 c.519 §4; 1995 c.79 §257; repealed by 2007 c.783 §234]

456.655 When bonds not to be issued; debt service reserve; bond declaration. (1) Bonds may be secured additionally by a pledge of amounts in the capital reserve account if provided in the housing finance bond declaration authorizing their issuance. The State Treasurer shall not issue bonds secured by a pledge of amounts in the capital reserve account unless the amount then on deposit in the capital reserve account, together with the amount of the proceeds of the bonds to be deposited in the account, is equal to or greater than the required debt service reserve. Subject to existing agreements with bondholders, the required debt service for any issue reserve shall be, as determined in the housing finance bond declaration, either (i) the maximum or (ii) the average of the amounts payable as annual debt service on all outstanding bonds secured by a pledge of amounts in the capital reserve account in any one fiscal year during the remaining term of such bonds. The annual debt service is an amount equal to the aggregate of:

(a) All interest payable during the fiscal year on all bonds secured by a pledge of amounts in the capital reserve account outstanding on the date of computation; and

(b) The principal amount of such bonds maturing during the same fiscal year; and

(c) All amounts as specified in any housing finance bond declaration or in any contract with bondholders as payable during such fiscal year as a sinking fund payment with respect to any bond issues as the Housing and Community Services Department has determined a debt service shall be required which mature after such fiscal year.

(2) The required debt service reserve shall be calculated on the assumption that bonds will after the date of computation cease to be outstanding by reason of payment of the bonds when due at their respective maturity, and upon application, in accordance with the resolution or any contract with bondholders, of all sinking fund payments payable at or after such date of computation. However, the department may, at the time of issuance of additional bonds, deposit in the capital reserve account, from the proceeds of the additional bonds to be issued, or other sources, an amount, which, together with the amount then in such fund will be not less than the maximum required debt service reserve.

(3) No bonds shall be issued by the State Treasurer unless they are part of an issue described in a written instrument signed by the Director of the Housing and Community Services Department and filed in the office of the State Treasurer. Each instrument shall set forth or otherwise determine or provide for the date of the bonds, the amount, the maturity or maturities, the rate or rates of interest, the form of bonds, the place of payment, registration provisions, terms of redemption, and time, place and manner of sale of the issue. Each instrument, when the State Treasurer shall have certified approval thereon, shall be known as a "housing finance bond declaration." Each

housing finance bond declaration shall be deemed to be and shall constitute conclusive proof of the authorization to issue the bonds therein described and may contain such further pledges and provisions concerning bonds. The State Treasurer and the director of the department shall have and exercise all powers necessary or incidental to carry out the purposes of this subsection. [1973 c.828 §13; 1975 c.154 §3; 1983 c.519 §5]

456.660 [1973 c.828 §14; repealed by 1979 c.327 §10 (456.661 enacted in lieu of 456.660)]

456.661 Limitation on revenue bond amount; legislative findings; designation of areas for issuance of qualified mortgage bonds. (1) The aggregate principal amount of bonds issued under ORS 456.645 that may be outstanding is $2.5 billion, excluding bonds issued under and within the limits provided in ORS 456.515 to 456.725 and any bonds that have been refunded. The amount of $30 million of the total $2.5 billion of bonds authorized under this section or proceeds from the sale of the bonds shall be made exclusively available for making or participating in making residential loans for single-family homes in cities with a population of 300,000 or more in the manner specified in ORS 456.593. No more than $10 million of the bonds authorized under this section or proceeds from the sale of the bonds shall be made available for residential loans for home improvements.

(2) ORS 286A.095 applies for purposes of determining limitations under this section.

(3) The Legislative Assembly finds that:

(a) Pursuant to ORS 456.515 to 456.725, the Housing and Community Services Department has served as the sole department or instrumentality of the state authorized to coordinate and establish statewide priorities for housing programs and to provide planning and technical assistance to sponsors of housing for persons and families of lower income throughout the state.

(b) The department's activities have been instrumental in alleviating the serious shortage of decent, safe and sanitary housing for lower income persons.

(c) Continuation of the department's programs for financing owner-occupied residential housing to the fullest extent practicable under the Internal Revenue Code is a matter of paramount concern to the state.

(4) The department shall designate areas of chronic economic distress within the state for the purpose of issuing qualified mortgage bonds as described in section 143 of the Internal Revenue Code. [1979 c.327 §11 (enacted in lieu of 456.660); 1981 c.504 §8; 1981 c.691 §3; 1985 c.205 §1; 1995 c.79 §258; 1999 c.698 §2; 2001 c.114 §51; 2005 c.643 §2; 2007 c.783 §201]

456.665 Status of revenue bonds; negotiability; interest tax-exempt. (1) Neither the State Treasurer, the Director of the Housing and Community Services Department, the State Housing Council nor any officer or employee of the Housing and Community Services Department shall be liable personally on any bonds issued under ORS 456.515 to 456.725 by reason of the issuance thereof.

(2) All obligations issued by the State Treasurer under ORS 456.548 to 456.725 shall not constitute a debt, liability or general obligation of this state or any political subdivision thereof or a pledge of the faith and credit of this state or any such political subdivision, but shall be payable solely from the revenues or assets of the department acquired pursuant to ORS 456.548 to 456.725. Each obligation issued under ORS 456.548 to 456.725 shall contain on the face thereof a statement that the department shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of this state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

(3) All bonds issued by the State Treasurer under ORS 456.548 to 456.725 shall be fully negotiable.

(4) The interest upon all bonds, including refunding bonds, issued by the State Treasurer under ORS 456.548 to 456.725 shall be exempt from personal income taxation in the State of Oregon. [1973 c.828 §15; 1979 c.327 §17a; 1981 c.23 §3; 1983 c.519 §6; 1987 c.414 §19; 1995 c.79 §259]

456.670 Bond maturity; execution. Bonds issued by the State Treasurer shall mature at the time or times not exceeding 47 years from the date of issue as shall be stated in the housing finance bond declaration. Notwithstanding the provisions of any other law, the rates of interest payable and discount, if any, with respect to bonds issued under ORS 456.548 to 456.725 shall be determined by the State Treasurer, upon the advice of the department. The bonds shall be executed in the manner set forth in ORS chapter 286A. [1973 c.828 §16; 1975 c.154 §4; 1979 c.327 §12; 1981 c.23 §4; 1981 c.660 §41; 1983 c.519 §7; 1995 c.79 §260; 2005 c.74 §5; 2007 c.783 §202]

456.675 Bond provisions and limits; security for payment. (1) The bonds issued by the State Treasurer under ORS 456.515 to 456.725 and the agreements with the bondholders may:

(a) Pledge all or any part of the fees and charges made or received by the Housing and Community Services Department under ORS 456.548 to 456.725 and all or any part of the moneys received in payment of residential

loans and interest thereon and other moneys received or to be received by the department under ORS 456.548 to 456.725 to secure payment of the bonds, subject to the provisions of any agreements with bondholders then existing.

(b) Pledge all or any part of the assets of the department acquired under ORS 456.548 to 456.725, including residential loans and obligations securing such residential loans to secure the payment of the bonds, subject to the provisions of any agreements with bondholders then existing.

(c) Pledge any moneys, loans or grants received from the federal government, the state or any city, county or political subdivision of this state for any housing project financed in whole or in part from the sale proceeds of bonds.

(d) Provide for the use and disposition of the gross income from residential loans held by the department and for the payment of the principal on residential loans held by the department.

(e) Limit the purposes for which the proceeds from the sale of bonds may be applied by the department and pledge such proceeds to secure payment of the bonds of the department.

(f) Limit the issuance of additional bonds, the terms upon which such additional bonds may be issued and the refunding of outstanding bonds.

(g) Provide for the procedure, if any, by which the terms of any contract with bondholders may be amended or rescinded, the percentage of the bondholders that must consent thereto and the manner of giving their consent thereto.

(h) Vest in a trustee appointed by the director such property, rights, powers and duties in trust as the department may determine, including the rights, powers and duties of a trustee appointed for bondholders pursuant to ORS 456.548 to 456.725 or limiting the rights, powers and duties of any trustee so appointed.

(i) Provide for other matters affecting security for the bonds.

(2) Any pledge made by or pursuant to subsection (1) of this section shall be valid and binding from the time when the pledge is made. The revenues, assets and funds pledged pursuant to subsection (1) of this section shall immediately be subject to the lien or pledge without physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether the parties have notice thereof. No housing finance bond declaration or any other instrument by which the pledge is created need be recorded or filed except as provided in ORS 456.548 to 456.725 and the department shall not be required to comply with any of the provisions of the Oregon Uniform Commercial Code. [1973 c.828 §17; 1975 c.154 §5; 1977 c.32 §1; 1979 c.60 §6; 1981 c.504 §9; 1983 c.519 §8; 1995 c.79 §261]

456.680 Purchase of bonds by department. Except as otherwise provided in the operative documents, the Housing and Community Services Department may acquire outstanding bonds issued on behalf of the department, as provided in ORS 286A.123 (1), out of moneys described in ORS 286A.123 (3) or other moneys of the department legally available for the purpose under ORS 456.515 to 456.725. If the outstanding bonds are redeemable at the time of acquisition, the department must pay a reasonable price that does not exceed the applicable redemption price plus accrued interest to the date of redemption. [1973 c.828 §18; 1995 c.79 §262; 2009 c.537 §10]

456.685 Bondholders' remedies. (1) If the Housing and Community Services Department defaults in the payment of the principal or interest due upon a bond, whether at maturity or upon call for redemption and such default continues for a period of 30 days thereafter or if the department fails or refuses to comply with any agreement with the bondholders or any other provision of ORS 456.548 to 456.725, the holders of 25 percent in aggregate principal amount of bonds then outstanding may instruct the trustee to represent them as provided in subsection (2) of this section by filing an appropriate instrument that is acknowledged in the manner provided for the acknowledgment of deeds in this state with the county clerk for Marion County.

(2) A trustee appointed pursuant to subsection (1) of this section may:

(a) Enforce all rights of the bondholders under ORS 456.548 to 456.725 or any agreement with the department by appropriate proceedings.

(b) Bring suit upon such bonds.

(c) By appropriate proceeding, require the department to account.

(d) By appropriate judicial proceedings, enjoin any act of the department that is in violation of ORS 456.548 to 456.725 or in violation of any agreement with the bondholders.

(e) Exercise any powers necessary or appropriate for the exercise of any functions under this section or otherwise incidental to the general representation of the bondholders in the enforcement and protection of their rights. [1973 c.828 §19; 1995 c.79 §263]

456.690 Loan authority of department; rules. (1) Upon a finding made by the State Housing Council that the supply of funds available through lending institutions for the financing of residential loans for the acquisition, construction, improvement or rehabilitation of housing units, manufactured dwellings, manufactured dwelling parks, manufactured dwelling park nonprofit cooperatives or housing projects for persons and families whose income does not exceed maximum household income limits established by the Housing and Community Services Department under ORS 456.620 (4) is inadequate, the department may make loans to lending institutions in this state for the purpose of providing funds to such institutions for the financing of residential housing units, manufactured dwellings, manufactured dwelling parks, manufactured dwelling park nonprofit cooperatives or housing projects, for persons and families whose income does not exceed maximum household income limits established by the department under ORS 456.620 (4).

(2)(a) The department, subject to existing agreements with bondholders, may make privately or federally insured or guaranteed loans for the rehabilitation or improvement of existing single-family homes for persons and families of lower income, manufactured dwellings for persons and families of lower income or manufactured dwelling parks and manufactured dwelling park nonprofit cooperatives that the department determines have a significant percentage of residents who are persons of lower income, if the department finds that:

(A) The supply of funds available through private lending institutions for that purpose is inadequate; and

(B) The housing may be rehabilitated or improved to provide adequate, safe and sanitary residential housing.

(b) The department may cooperate with qualified housing sponsors in the development and implementation of such loan programs. Loans made by the department under this subsection shall be made for single-family homes.

(3) Prior to the making of any loan under this section, the department, with the approval of the council, shall adopt rules governing the making of such loans, including but not limited to:

(a) Procedures for the submission, review and approval of requests for loans under this section.

(b) Standards and requirements for the allocation of loan moneys available among eligible borrowers and the determination of the terms, conditions and interest rates for such loans.

(c) Limitations, if any, on the number of housing units or projects, type of housing units or projects and any other characteristics for the eligibility of housing units or projects for such financing.

(d) Restrictions, if any, on the interest rates to be charged by lending institutions on loans made from such loan proceeds and the return to be realized by the lending institution therefrom.

(e) Commitment requirements applied to residential mortgage financing by lending institutions from the proceeds of such loans.

(f) Schedules of fees and charges to be made by the department in accepting, reviewing and acting upon applications for loans under this section.

(4) The department shall administer the loan program for rehabilitation or improvement of existing single-family homes for persons and families of lower income in accordance with the following requirements and loan criteria:

(a) Eligibility for a loan shall be based on current department income limitations.

(b) A loan may be assumed only by another person of lower income.

(c) The single-family home for which a loan is made must be owner-occupied.

(d) The maximum principal amount of a single loan is $15,000.

(e) An eligible borrower shall have only one loan outstanding under this program at any one time.

(f) An eligible improvement including, but not limited to, a remodeling project shall be defined by rule and the provisions of the Revenue Adjustments Act of 1980 (Public Law 96-499), as adopted December 5, 1980, shall be recognized in that definition.

(g) Loans shall be made in accordance with a distribution of population between urban and rural areas that takes the availability of alternative resources into account.

(h) The department shall work with qualified housing sponsors whenever it is appropriate to do so.

(5) All loans made and all rules adopted under this section shall be designed by the department, with the approval of the council, to expand the supply of funds available in this state for the financing of residential housing units, manufactured dwellings, manufactured dwelling parks, manufactured dwelling park nonprofit cooperatives and housing projects, for persons and families whose income does not exceed maximum household income limits established by the

department under ORS 456.620 (4), to provide an adequate supply of safe and sanitary units of such housing, and to promote the effective participation of conventional lending institutions in the financing of such housing and restrict the financial return and benefit to such lenders to that which is necessary and reasonable to induce their participation under this section.

(6) In making loans under this section, the department, with the approval of the council, may prescribe such terms, conditions, maturity dates and interest rate provisions as it considers necessary. [1973 c.828 §20; 1979 c.60 §7; 1979 c.327 §14; 1981 c.691 §4; 1985 c.298 §1; 1989 c.307 §7; 1991 c.739 §8; 2007 c.607 §20]

456.692 Loans financed through bonds secured by specific properties. (1) As used in this section, "eligible housing project" means a housing development determined by the Housing and Community Services Department to be suitable for financing under this section.

(2) In addition to any other powers granted by law, including without limitation the powers granted under ORS 456.548 to 456.725, the Housing and Community Services Department may do any of the following:

(a) Enter into agreements to finance the costs of an eligible housing project by lending the proceeds of bonds authorized under ORS 456.645 (1) to any qualified housing sponsor under such terms and with such security as the department may approve. However, notwithstanding ORS 456.645 (2), the proceeds of bonds described in this paragraph need not be placed in the Housing Finance Fund and bonds described in this paragraph need not be payable as to principal, redemption premium, if any, and interest from the revenues, assets or funds in the Housing Finance Fund. In addition, bonds described in this paragraph to finance eligible housing projects are not subject to ORS 456.655 and 456.661.

(b) Lease and sublease eligible housing projects to a qualified housing sponsor so that rents to be charged for the use of such projects are established, and revised from time to time as necessary, to produce income and revenue sufficient to provide for the prompt payment when due of principal and interest on all bonds described in paragraph (a) of this subsection. A lease shall provide that the lessee be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance on the project and insurance against all liability for injury to persons or property arising from the operation of the project. The lease shall also provide that the lessee pay all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease and that during the term of the lease the lessee shall pay ad valorem taxes in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project.

(c) Pledge and assign to the holders of bonds described in paragraph (a) of this subsection or a trustee therefor all or any part of the revenues of one or more eligible housing projects owned or to be acquired by the state, and define and segregate such revenues or provide for the payment thereof to a trustee.

(d) Mortgage or otherwise encumber eligible housing projects in favor of the holders of bonds described in paragraph (a) of this subsection or a trustee therefor.

(e) Make all contracts, execute and deliver all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, or in the performance of its covenants or duties, or in order to secure the payment of bonds described in paragraph (a) of this subsection. The authority granted under this paragraph includes a contract entered into prior to the construction, acquisition and installation of the eligible housing project authorizing the lessee, subject to such terms and conditions as the state finds necessary or desirable and proper, to provide for the construction, acquisition and installation of the buildings, improvements and equipment to be included in the project by any means available to the lessee and in the manner determined by the lessee.

(f) Enter into and perform such contracts and agreements with qualified housing sponsors as the respective boards of directors may consider proper and feasible for or concerning the planning, construction, installation, lease or other acquisition, and the financing of the facilities of an eligible housing project. The contracts and agreements may establish a body as may be considered proper for the supervision and general management of the facilities.

(g) Accept from an authorized agency of the federal government loans or grants for the planning, construction, acquisition, leasing or other provision of an eligible housing project and enter into agreements with that agency respecting the loans or grants.

(h) Execute and deliver letters of credit, municipal bond insurance or other credit enhancement agreements supporting and securing bonds described in paragraph (a) of this subsection. [2001 c.689 §2]

456.695 Housing required to comply with land use plans, zoning and other ordinances. All housing units or projects for which funds are advanced, loaned or otherwise provided by the Housing and Community Services Department under ORS 456.515 to 456.725 and ORS chapter 458 must be in compliance with any interim comprehensive land use plan or comprehensive land use plan and zoning, subdivision and other ordinances and regulations and laws of this state applicable to the lands upon which such projects are to be constructed; or, if an interim comprehensive land use plan or comprehensive land use plan is not in effect with respect to such lands, such units or projects must be in compliance with generally accepted land use planning standards. [1973 c.828 §21; 1995 c.79 §264]

456.697 Restrictions on use of financing provided by department; regulation of housing sponsor; security interests. (1) Not more than 50 percent of the total amount of any financing provided by the Housing and Community Services Department for a particular housing development may be used to finance commercial, recreational, industrial, communal or educational facilities. Profits from incidental elements shall be applied to loans due under ORS 456.548 to 456.725.

(2) A limited dividend housing sponsor shall be restricted as to distribution of income and shall be regulated as to rents, charges, rate of return and methods of operation as the department determines necessary to carry out the purposes of ORS 456.548 to 456.725.

(3) Not more than 50 percent of the total amount of any financing provided by the department for a particular residential housing development may be used to finance nonhousing facilities.

(4) An insured or guaranteed residential loan need not be secured by a first mortgage on real property but, unless the loan is to a manufactured dwelling park nonprofit cooperative, shall be secured by a security interest of first priority. If the insured or guaranteed loan is to a manufactured dwelling park nonprofit cooperative, the loan shall be secured by a security interest of first or second priority. [2007 c.607 §9]

456.700 Pledge and lien. Any pledge, commitment or reservation of funds made by the Housing and Community Services Department under ORS 456.515 to 456.725 is valid and binding from the date on which the pledge was executed as provided in ORS 286A.102. The lien of the pledge is valid and binding as against all parties having any claims in tort, contract or otherwise against the department whether or not the parties have notice of the lien. [1973 c.828 §22; 1977 c.32 §2; 1995 c.79 §265; 2007 c.783 §203]

456.705 Servicing loans. For the servicing of any residential, manufactured dwelling, manufactured dwelling park or manufactured dwelling park nonprofit cooperative loan made or acquired by the Housing and Community Services Department under ORS 456.515 to 456.725 and ORS chapter 458 the department may:

(1) Provide for servicing of the loan by its own staff.

(2) Contract with the Director of Veterans' Affairs for the performance of servicing functions for the loan.

(3) For loans purchased by the department under ORS 456.635, contract with the lending institution selling such loans or any other lending institution for the servicing of such loans, subject to such terms and conditions as the department considers necessary to protect the interests of the department in such loans. The department may provide for the payment of such fees for servicing performed by a lending institution under this subsection as it considers necessary. [1973 c.828 §23; 1979 c.60 §8; 1979 c.327 §15; 1995 c.79 §266; 2007 c.607 §21]

456.710 Payment of advances; use thereof; limitations. (1) The Housing and Community Services Department may use moneys in the revolving account 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. [1973 c.828 §24; 1979 c.60 §9; 1981 c.691 §5; 2007 c.607 §22]

456.715 Insurance of loans. (1) The Housing and Community Services Department may insure residential, manufactured dwelling, manufactured dwelling park and manufactured dwelling park nonprofit cooperative loans or obtain reinsurance on such loans. All such loans shall be used only to provide residential housing for persons and families of lower income and the insured must agree to any restrictions placed upon such residential housing by the department. The department may establish dedicated accounts within the Housing Finance Fund to provide reserves against losses in connection with that insurance.

(2) All applications for residential loan insurance under subsection (1) of this section shall be made on such forms and accompanied by such application fee as the department may prescribe.

(3) The department shall notify the applicant of its determinations and the approval or denial of the application.

(4) Notwithstanding subsection (1) of this section, the department may insure loans for manufactured dwelling units, manufactured dwelling parks and manufactured dwelling park nonprofit cooperatives if the department determines that the unit, park or cooperative has a significant percentage of residents who are persons of lower income. [1973 c.828 §§25,26; 1979 c.60 §10; 1979 c.327 §16; 2007 c.607 §23]

456.717 Interim construction financing for multifamily housing. (1) The Housing and Community Services Department may participate with a lending institution in providing interim construction financing for multifamily housing projects. Subject to the discretion of the department, such financing need not be insured or guaranteed.

(2) As used in this section, "multifamily housing" means, but is not limited to, projects which provide four or more living units, which projects may provide spaces for common use by the occupants in social and recreational activities. Projects under this section may include such other nonhousing facilities incidental or appurtenant to the project as the department determines improve the quality of the housing and the financial feasibility of the project, provided that not more than 50 percent of the total amount of financing provided by the department for a particular multifamily housing project shall be used for such nonhousing facilities. [1979 c.327 §27; 1981 c.504 §10; 1993 c.1 §1; 1997 c.302 §2]

456.720 Housing Finance Fund; Housing Development Account. (1) The Housing Finance Fund is established, separate and distinct from the General Fund. The 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 that were expended by the department pursuant to ORS 456.574 (2)(b).

(5) 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) 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) 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) 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) Except as otherwise stipulated by the source of funds, 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) 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. [1973 c.828 §27; 1975 c.97 §1; 1975 c.154 §6; 1987 c.567 §3; 1989 c.966 §51; 1995 c.79 §267; 2007 c.783 §203a]

456.722 Preferences in funding grants to low-income housing providers; rules. (1)(a) The Housing and Community Services Department shall, when awarding public funds for low-income rental housing, give a substantial preference to low-income housing providers that do not require applicants for such housing to have net income greater than two times the rent.

(b) As used in this section, "public funds" includes all low-income rental housing grants, loans or tax credits administered or awarded by the department, whether state, federal or otherwise, but does not include funds derived from the sale of bonds by the department.

(c) Enforcement of the preference following an award of funds shall be by complaint to the department.

(2) The department shall adopt any rules necessary to implement this section. [1997 c.577 §41]

Note: 456.722 was added to and made a part of 456.515 to 456.725 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Bonding)

456.723 Legislative finding on bonding authority of department. The Legislative Assembly finds that:

(1) There exists a shortage of safe, affordable and readily available housing in this state, particularly for people of low income, fixed income or modest means.

(2) It is in the best interests of the people of this state to insure that there is an adequate supply of housing for people of all income levels, particularly low-income people, in order to reduce:

(a) The number of people who are homeless or who live in inadequate housing in this state; and

(b) Dependence on various state services that exist because of the needs created by homelessness and inadequate housing.

(3) The Housing and Community Services Department's authority to issue bonds is an effective tool that will increase funds available to provide safe, affordable housing and reduce homelessness in this state. [1989 c.719 §1]

DISCRIMINATION

456.725 Discrimination against purchaser with children prohibited; exceptions; rules. (1) Unless the qualified housing sponsor, as defined in ORS 456.548, has agreed not to discriminate against the initial dwelling unit purchaser or any tenant who is a parent or legal guardian with whom a child resides or is expected to reside, the

housing sponsor shall not be entitled to any benefits for the construction, substantial rehabilitation or permanent financing of multiple unit residential housing or owner occupied dwelling units in condominiums or cooperatives from any of the following:

(a) Any state financed or sponsored housing program.

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

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

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

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

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

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

(7) Nothing in this section requires or prohibits a qualified housing sponsor from providing facilities to accommodate the children of tenants. [1981 c.451 §1; 1987 c.414 §20]

456.727 [1987 c.414 §11; repealed by 1993 c.744 §4]

456.730 [1975 c.676 §1; renumbered 455.510 in 1987]

456.732 [1987 c.414 §12; repealed by 1993 c.744 §4]

456.735 [1975 c.676 §2; 1983 c.764 §1; renumbered 455.520 in 1987]

456.737 [1987 c.414 §13; repealed by 1993 c.744 §4]

456.740 [1975 c.676 §4; 1981 c.495 §1; renumbered 455.525 in 1987]

456.741 [1987 c.414 §13a; repealed by 1993 c.744 §4]

456.742 [Formerly 456.745; renumbered 455.530 in 1987]

456.744 [1977 c.354 §3; renumbered 455.565 in 1987]

456.745 [1975 c.676 §5; renumbered 456.742 and then 455.530]

456.746 [1977 c.354 §2; renumbered 455.560 in 1987]

456.747 [1977 c.354 §4; renumbered 455.570 in 1987]

456.748 [1977 c.354 §5; renumbered 455.575 in 1987]

456.749 [1977 c.354 §6; renumbered 455.580 in 1987]

456.750 [1973 c.834 §1; renumbered 455.010 in 1987]

456.752 [1987 c.414 §13b; 1993 c.744 §250a; renumbered 701.285 in 1993]

456.753 [1977 c.816 §2; renumbered 456.915 and then 455.310]

456.755 [1973 c.834 §2; 1979 c.838 §4; 1983 c.740 §179; renumbered 455.020 in 1987]

456.756 [1975 c.571 §2; renumbered 455.410 in 1987]

456.757 [Formerly 670.330; repealed by 1993 c.744 §252]

456.758 [1975 c.646 §2; renumbered 456.917 and then 455.315]

456.760 [1973 c.834 §3; 1975 c.607 §35; 1977 c.283 §3; 1979 c.875 §1; 1981 c.421 §3; 1987 c.58 §14; renumbered 455.210 (1) to (5) in 1987]

456.762 [Formerly 670.340; repealed by 1993 c.744 §252]

456.763 [1977 c.546 §§2,3; renumbered 455.420 in 1987]

456.765 [1973 c.834 §4; repealed by 1977 c.283 §6]

456.770 [1973 c.834 §5; renumbered 455.110 in 1987]

456.772 [1977 c.422 §§2,3; renumbered 455.425 in 1987]

456.775 [1973 c.834 §6; 1977 c.283 §5; 1979 c.838 §5; renumbered 455.040 in 1987]

456.780 [1973 c.834 §7; renumbered 455.130 in 1987]

456.785 [1973 c.834 §9; 1977 c.494 §1; renumbered 455.030 in 1987]

456.787 [1979 c.838 §2; renumbered 455.635 in 1987]

456.790 [1973 c.834 §10; renumbered 455.100 in 1987]

456.795 [1973 c.834 §11; repealed by 1987 c.414 §172]

456.800 [1973 c.834 §12; 1987 c.414 §30d; 1987 c.604 §10; renumbered 455.150 in 1987]

456.802 [1977 c.396 §1; renumbered 455.080 in 1987]

456.803 [1981 c.421 §2; renumbered 455.160 in 1987]

456.805 [1973 c.834 §13; renumbered 455.715 in 1987]

456.810 [1973 c.834 §14; 1981 c.343 §3; renumbered 455.720 in 1987]

456.815 [1973 c.834 §15; renumbered 455.725 in 1987]

456.820 [1973 c.834 §16; 1977 c.748 §2; renumbered 455.730 in 1987]

456.825 [1973 c.834 §18; renumbered 455.735 in 1987]

456.830 [1973 c.834 §17; repealed by 1977 c.283 §6]

456.835 [1973 c.834 §19; renumbered 455.740 in 1987]

456.837 [Formerly 446.337; renumbered 455.680 in 1987]

456.840 [1973 c.834 §20; renumbered 455.685 in 1987]

456.842 [1977 c.283 §2; renumbered 455.070 in 1987]

456.845 [1973 c.834 §21; renumbered 455.060 in 1987]

456.850 [1973 c.834 §22; renumbered 455.690 in 1987]

456.855 [1973 c.834 §23; renumbered 455.700 in 1987]

456.860 [1973 c.834 §25; 1977 c.283 §4; renumbered 455.220 in 1987]

456.865 [1973 c.834 §26; repealed by 1977 c.283 §6]

456.870 [1973 c.834 §27; repealed by 1977 c.283 §6]

456.875 [1973 c.834 §28; renumbered 455.675 in 1987]

456.880 [1973 c.834 §29; renumbered 455.430 in 1987]

456.885 [1973 c.834 §24; 1975 c.418 §1; 1979 c.838 §6; subsection (1) renumbered 455.450 in 1987; subsection (2) renumbered 455.990 in 1987]

456.887 [1975 c.466 §24; renumbered 455.050 in 1987]

456.890 [1973 c.834 §38; 1975 c.721 §11; 1983 c.676 §30; renumbered 455.230 in 1987]

456.910 [1974 s.s. c.24 §2; renumbered 455.240 in 1987]

456.915 [Formerly 456.753; renumbered 455.310 in 1987]

456.917 [Formerly 456.758; renumbered 455.315 in 1987]

456.920 [1979 c.838 §3; renumbered 455.320 in 1987]

456.925 [1979 c.860 §2; renumbered 455.325 in 1987]

456.930 [1979 c.860 §3; renumbered 455.330 in 1987]

456.935 [1979 c.860 §4; renumbered 455.335 in 1987]

456.940 [1979 c.860 §5; renumbered 455.340 in 1987]

456.945 [1979 c.838 §6; 1979 c.860 §6; renumbered 455.345 in 1987]

456.950 [1979 c.838 §7; 1979 c.860 §7; renumbered 455.350 in 1987]

456.965 [Formerly 460.210; renumbered 455.640 in 1997]

456.970 [Formerly 460.220; renumbered 455.642 in 1997]

456.975 [Formerly 460.230; renumbered 455.645 in 1997]