

B-Engrossed
House Bill 2932

Ordered by the Senate July 5
Including House Amendments dated April 28 and Senate Amendments
dated July 5

Sponsored by Representative NELSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates Department of Veterans' Affairs to administer federal and state laws relating to veterans.

Allows community centers established in exclusive farm use zones to provide services to veterans.

A BILL FOR AN ACT

1
2 Relating to veterans; creating new provisions; and amending ORS 88.710, 88.720, 88.740, 113.085,
3 113.105, 125.095, 125.410, 215.283, 270.100, 273.141, 273.785, 279.015, 279A.050, 279C.335, 291.445,
4 406.020, 406.030, 406.040, 406.050, 406.060, 406.085, 406.090, 406.100, 406.120, 406.130, 407.085,
5 407.095, 407.115, 407.125, 407.131, 407.135, 407.145, 407.155, 407.165, 407.169, 407.177, 407.179,
6 407.185, 407.201, 407.205, 407.225, 407.275, 407.285, 407.295, 407.315, 407.325, 407.327, 407.335,
7 407.349, 407.375, 407.377, 407.385, 407.415, 407.425, 407.465, 407.480, 407.485, 407.490, 407.495,
8 407.505, 407.525, 407.555, 407.565, 407.595, 408.360, 475A.005 and 540.610 and section 1, chapter
9 666, Oregon Laws 2001.

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

11 **SECTION 1. (1) The Department of Veterans' Affairs is established.**

12 **(2) The department is under the supervision and control of a director appointed as pro-**
13 **vided in ORS 406.020.**

14 **(3) The department is responsible for the administration of federal and state laws relating**
15 **to veterans.**

16 **SECTION 2. The transfer of duties, functions and powers to the Department of Veterans'**
17 **Affairs by the amendments to statutes and laws in sections 5 to 75 of this 2005 Act does not**
18 **affect any action, proceeding or prosecution involving or with respect to the duties, functions**
19 **and powers begun before and pending at the time of the transfer, except that the Department**
20 **of Veterans' Affairs is substituted for the Director of Veterans' Affairs in the action, pro-**
21 **ceeding or prosecution.**

22 **SECTION 3. (1) Nothing in the amendments to statutes and laws by sections 5 to 75 of**
23 **this 2005 Act relieves a person of a liability, duty or obligation accruing under or with respect**
24 **to the duties, functions and powers transferred by the amendments to statutes and laws by**
25 **sections 5 to 75 of this 2005 Act. The Department of Veterans' Affairs may undertake the**
26 **collection or enforcement of any such liability, duty or obligation.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **(2) The rights and obligations of the Director of Veterans' Affairs legally incurred under**
2 **contracts, leases and business transactions executed, entered into or begun before the ef-**
3 **fective date of the amendments to statutes and laws by sections 5 to 75 of this 2005 Act are**
4 **transferred to the Department of Veterans' Affairs. For the purpose of succession to these**
5 **rights and obligations, the Department of Veterans' Affairs is a continuation of the Director**
6 **of Veterans' Affairs and not a new authority.**

7 **SECTION 4.** Notwithstanding the transfer of duties, functions and powers by the
8 amendments to statutes and laws in sections 5 to 75 of this 2005 Act, the rules of the Di-
9 rector of Veterans' Affairs in effect on the effective date of the amendments to statutes and
10 laws by sections 5 to 75 of this 2005 Act continue in effect until superseded or repealed by
11 rules of the Department of Veterans' Affairs. References in rules of the Director of Veter-
12 ans' Affairs to the Director of Veterans' Affairs are considered to be references to the De-
13 partment of Veterans' Affairs.

14 **SECTION 5.** ORS 406.020 is amended to read:

15 406.020. The *[office of]* **Department of Veterans' Affairs shall be under the supervision and**
16 **control of the** Director of Veterans' Affairs. *[is created and shall be filled by appointment of the*
17 *Governor]* **The Governor shall appoint the director** subject to confirmation by the Senate in the
18 manner provided in ORS 171.562 and 171.565. *[Such]* **The** appointment *[shall]* **may** not be made
19 without the written approval of the Advisory Committee provided for in ORS 406.210. The director
20 shall be a war veteran, chosen on the basis of executive and administrative ability.

21 **SECTION 6.** ORS 406.030 is amended to read:

22 406.030. (1) The Director of Veterans' Affairs, in the performance of the duties of the director,
23 shall organize and coordinate the administration of all present and future federal and state laws
24 pertaining to war veterans and their dependents in this state. *[For such purpose the director may*
25 *establish such units or divisions as in the opinion of the director will enhance the efficiency of the*
26 *administration and promote the welfare of war veterans and their dependents. Any unit or division so*
27 *established shall be directly responsible to the director and shall be under the supervision of the di-*
28 *rector.]*

29 (2) The *[director]* **Department of Veterans' Affairs**, with the advice of the Advisory Committee
30 provided for in ORS 406.210, shall promulgate such rules and adopt such forms as the *[director]* **de-**
31 **partment** considers necessary and expedient to carry out the provisions of ORS chapter 407 and
32 ORS 88.710 to 88.740, 174.105, 406.010 to 406.090, 406.210 to 406.340, 406.410, 406.420, 408.010 to
33 408.090, 408.360, 408.365, 408.370, 408.375, 408.380 and 408.385.

34 **SECTION 7.** ORS 406.040 is amended to read:

35 406.040. The powers, authority and duties relating exclusively to war veterans' affairs now or
36 hereafter imposed by law upon any officer or agency of this state, are hereby also granted to and
37 imposed upon the *[Director]* **Department** of Veterans' Affairs. Subject to ORS 406.090, the
38 *[director]* **department** shall be responsible for and shall supervise the administration of all such
39 laws. The *[director]* **department** may employ such personnel as may be necessary to carry into ef-
40 fect the purposes of this chapter and may prescribe the duties and responsibilities of all such em-
41 ployees.

42 **SECTION 8.** ORS 406.050 is amended to read:

43 406.050. In addition to other powers and duties, the Director of Veterans' Affairs **or the De-**
44 **partment of Veterans' Affairs** is authorized:

45 (1) To cooperate with officers and agencies of the United States in all matters affecting veter-

1 ans' welfare.

2 (2) To accept grants, donations and gifts on behalf of this state for veterans' welfare from any
3 person, corporation, government or governmental agency. Grants, donations and gifts so received
4 shall be deposited with the State Treasurer and credited to a trust fund. Moneys in the trust fund
5 are continuously appropriated to the [director] **department** and expendable for the purposes speci-
6 fied in subsections (3) and (4) of this section. Interest earned on the moneys in the trust fund cre-
7 ated under this subsection shall accrue to the trust fund.

8 (3) To expend all or any portion of a grant, donation or gift for the purposes specified in the
9 grant, donation or gift.

10 (4) To expend all or any portion of a grant, donation or gift in the trust fund created under
11 subsection (2) of this section for the administration of ORS 406.010 to 406.070, 406.090, 406.210,
12 406.220 and 406.340 and for the administration and purposes of ORS 408.368 when:

13 (a) The [director] **department** determines that the purpose specified in the grant, donation or
14 gift has been satisfied, or is not feasible or appropriate; or

15 (b) The grant, donation or gift specifies no purpose.

16 (5) To donate or otherwise transfer all or any portion of a grant, donation or gift to other per-
17 sons, corporations or entities engaged in serving veterans if the [director] **department** determines
18 that the nature of the grant, donation or gift makes use by the [director] **department** or conversion
19 to cash for use by the [director] **department** not feasible or appropriate.

20 (6) To act as agent or attorney in fact for any war veteran and the dependents or beneficiaries
21 of any war veteran relating to rights under any federal or state law.

22 (7) To act without bond as conservator of the estate of:

23 (a) A person who qualifies for benefits from the United States Department of Veterans Affairs.

24 (b) A dependent, an immediate family member, a survivor or a former spouse who has not re-
25 married of a person who qualifies for benefits, or who qualified for benefits while alive, from the
26 United States Department of Veterans Affairs, as those persons are defined by rule by the director.

27 (8) On behalf of the State of Oregon to extend such assistance as the [director] **Department of**
28 **Veterans' Affairs** shall determine to be reasonably required to any war veteran and to the depen-
29 dents of any such war veteran, in the prosecution of any claim or claims before the United States
30 Department of Veterans Affairs, or any other federal or state agency, the securing of employment
31 or relief and any other benefits to which they might be entitled. The [director] **Department of**
32 **Veterans' Affairs** may adopt rules and regulations with respect to all matters of administration to
33 carry into effect the purposes of this section.

34 (9) To require and collect such reasonable service charges as the [director] **Department of**
35 **Veterans' Affairs** deems necessary and expedient to carry out a duty, or to exercise a power or
36 authority, conferred on the [director] **department** by law.

37 **SECTION 9.** ORS 406.060 is amended to read:

38 406.060. The [Director] **Department** of Veterans' Affairs may utilize the services and facilities
39 of any state agency in the course of administration of any law of this state enacted for the benefit
40 and welfare of war veterans and their dependents. All such agencies shall cooperate fully with the
41 [director] **department** in that regard and furnish such services and facilities when called upon by
42 the [director] **department** to do so. Neither the authority nor the duties referred to in this section
43 shall be so exercised or performed as to impair the efficient administration of the laws applicable
44 to any state agency.

45 **SECTION 10.** ORS 406.085 is amended to read:

1 406.085. The Conservatorship Revolving Account is created, separate and distinct from the
2 General Fund, to provide for disbursement of funds for the beneficiary. Funds may also be disbursed
3 from the Conservatorship Revolving Account to the Conservatorship Services Account in compen-
4 sation for claims arising under ORS 406.100. The Conservatorship Revolving Account shall consist
5 of all money received by the [Director] **Department** of Veterans' Affairs as conservator or personal
6 representative herein. Disbursement from the account shall be made by the [director] **department**,
7 and the Secretary of State shall post audit all the disbursements. Interest earned by the account
8 shall be credited to the account.

9 **SECTION 11.** ORS 406.090 is amended to read:

10 406.090. The administration of ORS 273.035 to 273.051, 273.071, 273.161 to 273.175 and 408.710
11 to 408.750 shall in no way be affected by ORS 406.010 to 406.070, 406.210, 406.220 and 406.340, and
12 such laws are excepted from the operation thereof. The [Director] **Department** of Veterans' Affairs
13 shall cooperate with the person or agency responsible for the administration of such laws, and shall
14 render such reasonable assistance in that regard as may be requested by any such person or agency.

15 **SECTION 12.** ORS 406.100 is amended to read:

16 406.100. If the [Director] **Department** of Veterans' Affairs is appointed as a conservator under
17 ORS 406.050 or a personal representative under ORS 113.085, the [director] **department** shall have
18 a claim against the estate of the protected person or the decedent, as the case may be, for all of the
19 following:

20 (1) Reasonable expenses incurred by the [director] **department** in the execution or adminis-
21 tration of the estate.

22 (2) After the appointment of the [director] **department** as conservator, compensation for ordi-
23 nary services in an amount not to exceed five percent of income to the estate, and reasonable
24 compensation for unusual services as set forth by rule by the [director] **department**.

25 (3) After the appointment of the [director] **department** as personal representative, compensation
26 as provided in ORS 116.173.

27 (4) With prior approval by the court having probate jurisdiction over the estate, fees charged
28 to the [director] **department** by the Attorney General for advice or assistance in the performance
29 of the [director's] **department's** duties as conservator or personal representative of the estate.

30 **SECTION 13.** ORS 406.120 is amended to read:

31 406.120. (1) The Conservatorship Services Account is established as a separate account within
32 the Oregon War Veterans' Fund. The Conservatorship Services Account shall consist of all moneys
33 received by the [Director] **Department** of Veterans' Affairs as payment of claims arising under ORS
34 406.100.

35 (2) The moneys in the Conservatorship Services Account are continuously appropriated to the
36 [director] **department** for payment of expenses incurred while serving as conservator under ORS
37 406.050 or personal representative under ORS 406.085.

38 (3) Moneys in the Conservatorship Services Account shall be held and set aside separately from
39 the other moneys in the Oregon War Veterans' Fund, but such account may be accounted for as part
40 of the Oregon War Veterans' Fund.

41 **SECTION 14.** ORS 406.130 is amended to read:

42 406.130. There hereby is established in the General Fund of the State Treasury an account to
43 be known as the Veterans' Services Account. Moneys in the Veterans' Services Account are con-
44 tinuously appropriated to the [Director] **Department** of Veterans' Affairs and shall be used by the
45 [director] **department** for grants and services supplied to veterans by the [director] **department**

1 under ORS chapters 406 and 408, and for expenses of administration of such grants and services.

2 **SECTION 15.** ORS 407.085 is amended to read:

3 407.085. (1) As used in Article XI-A, Oregon Constitution, and this chapter, for the purposes of
4 administration:

5 (a) "Acquisition" means:

6 (A) Purchase and improvement of a home or farm.

7 (B) Payment of the balance of the purchase price and interest on a purchase contract, and the
8 improvement of property thereby acquired.

9 (C) Refinance of an existing purchase-money mortgage or mortgage in the nature thereof, and
10 the improvement of property thereby purchased.

11 (D) Improvement of a home or farm.

12 (b) "Bonds" includes, but is not limited to, serial bonds, term bonds, notes, obligations, lines of
13 credit, revolving credit agreements, loans, financing agreements or other evidence of indebtedness
14 determined by the [*Director*] **Department** of Veterans' Affairs, with the approval of the State
15 Treasurer, to be necessary or desirable to provide funds for the purposes expressed in Article XI-A
16 of the Oregon Constitution.

17 (2) As used in this chapter:

18 (a) "Committee" means the Advisory Committee provided for by ORS 406.210.

19 [*(b) "Director" means the Director of Veterans' Affairs.*]

20 [*(c) (b) "Home" means any residential-type structure, including outbuildings and the real prop-*
21 *erty in connection with it, if any, including long-term leaseholds, which is established, maintained*
22 *and used primarily as a principal residence by the veteran.*

23 [*(d) (c) "Improvement" means new construction or any necessary or beneficial additions, alter-*
24 *ations or changes appurtenant to the home or farm which protect or improve the basic livability or*
25 *energy efficiency of the premises.*

26 [*(e) (d) "Mobile home" means a structure, transportable in one or more sections, which is 10*
27 *feet or more in width, and contains more than 500 square feet of living space figured on exterior*
28 *dimensions of the structure, exclusive of any hitch and is designed to be used as a dwelling by one*
29 *family, and which remains as personal property under the laws of this state.*

30 **SECTION 16.** ORS 407.095 is amended to read:

31 407.095. (1) It is the policy of the State of Oregon to make every reasonable attempt to keep a
32 veteran in the home purchased under the loan program when the veteran is unable to make required
33 loan payments because of illness, injury, death, involuntary job loss or economic stress due to fac-
34 tors beyond individual control. The [*Director*] **Department** of Veterans' Affairs, by rule, shall im-
35 plement such state policy. Rules adopted by the [*director*] **department** under this section:

36 (a) May provide for a temporary reduction of loan payment.

37 (b) May provide for any other solution jointly agreed to by the borrower and the [*director*] **de-**
38 **partment.**

39 (c) Shall provide for repayment of the amount of any loan payments reduced under the rules in
40 accordance with terms and conditions agreed upon by the borrower and the [*director*] **department.**

41 (2) In reducing loan payments under this section, the [*director*] **department** must consider the
42 effect of such reduction on the solvency of the program as a whole, on estimates of the most prob-
43 able financial position of the program for one or more future periods, the condition of the tax ex-
44 empt bond market, and the effect on other borrowers in the program.

45 **SECTION 17.** ORS 407.115 is amended to read:

1 407.115. The [*Director*] **Department** of Veterans' Affairs shall administer the provisions of ORS
2 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565. The [*director*] **department**
3 may adopt [*and promulgate*] all necessary rules [*and regulations*] not inconsistent with those sections
4 to carry into effect their provisions. The [*director*] **department** may appoint assistants and agents
5 necessary to expeditious and efficient administration and fix their compensation.

6 **SECTION 18.** ORS 407.125 is amended to read:

7 407.125. All moneys in the Oregon War Veterans' Fund created by ORS 407.495 may be advanced
8 by the [*Director*] **Department** of Veterans' Affairs as loans to any person qualified for loans under
9 the provisions of section 3, Article XI-A, Oregon Constitution, for the acquisition of farms and
10 homes, as provided in ORS 407.115, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565
11 and not otherwise.

12 **SECTION 19.** ORS 407.131 is amended to read:

13 407.131. The [*Director*] **Department** of Veterans' Affairs, by rule, may discount a portion of the
14 principal payable to the [*director*] **department** in connection with a home or farm loan or in con-
15 nection with a purchase contract for a home or farm if such action results in economic benefit to
16 the home and farm loan program after considering the time value of money.

17 **SECTION 20.** ORS 407.135 is amended to read:

18 407.135. The [*Director*] **Department** of Veterans' Affairs is authorized and empowered, in the
19 name and in behalf of the state to commence and prosecute to judgment all suits, actions and pro-
20 ceedings necessary to protect the interest of the state; to bid in property offered for sale under such
21 proceedings and to acquire title to property for and in behalf of the state as a result of such pro-
22 ceedings; to accept deeds from borrowers in lieu of foreclosure; to sell, transfer, convey, lease or
23 assign any property acquired by the [*director*] **department** for and in behalf of the state; to make
24 repairs and improvements or alterations; to pay taxes, liens and charges of every kind superior to
25 the lien of the state; and otherwise to administer such property in such manner as the [*director*]
26 **department** deems to the best interest of the state. All money received by the [*director*] **depart-**
27 **ment** from the sale, leasing or other disposition of any property shall be paid over to the State
28 Treasurer and deposited in the Oregon War Veterans' Bond Sinking Account.

29 **SECTION 21.** ORS 407.145 is amended to read:

30 407.145. (1) The [*Director*] **Department** of Veterans' Affairs may acquire property by purchase
31 when the acquisition of such property is necessary to protect the interest of the state because of
32 default in repayment of loans made in accordance with ORS 407.125 or statutes supplementary
33 thereof. The **department shall exercise** control of all [*such*] **the** property while the title remains
34 vested in the state [*shall be exercised by the director*].

35 (2) The [*director*] **department** may take [*such*] **any** action and make [*such*] disbursements as may
36 be necessary to protect the securities for loans acquired under this chapter. Any disbursement so
37 made shall be added to the amount due from the borrower and shall bear interest at the rate then
38 fixed for home improvement loans under ORS 407.325 or at the rate on the existing loan, whichever
39 is higher. Any such disbursement shall be made only upon order of the [*director*] **department**.

40 (3) Funds for the protection of security may be disbursed from the Oregon War Veterans' Fund
41 including the Oregon War Veterans' Bond Sinking Account as the [*director*] **department** shall de-
42 termine.

43 **SECTION 22.** ORS 407.155 is amended to read:

44 407.155. All deeds, leases, contracts, releases of mortgages and other instruments necessary or
45 proper in the administration of this chapter shall be executed in behalf of the state by the

1 [Director] **Department** of Veterans' Affairs and shall be acknowledged by the [director]
2 **department**; and all deeds, mortgages, notes, insurance policies, abstracts and other instruments,
3 documents and papers delivered to the [director] **department** in the administration of those sections
4 shall be kept in the custody of the [director] **department**.

5 **SECTION 23.** ORS 407.165 is amended to read:

6 407.165. The [Director] **Department** of Veterans' Affairs may receive and hold for future dispo-
7 sition conditional payments from borrowers who have executed mortgages and security instruments
8 under authority of ORS 407.225, indemnities for fire losses on secured property, and such other sums
9 as must be held by the [director] **department** in suspense pending further or final disposition
10 thereof. Said funds shall be deposited in the State Treasury in the revolving account authorized by
11 ORS 407.565 until they can be properly applied to the purposes for which they were paid to and
12 received by the [director] **department**.

13 **SECTION 24.** ORS 407.169 is amended to read:

14 407.169. (1) The [Director] **Department** of Veterans' Affairs shall make escrow accounts avail-
15 able to current and future borrowers and contract purchasers in connection with loan agreements
16 and purchase contracts made under this chapter.

17 (2) Escrow accounts established under this section shall be consistent with general lending and
18 servicing standards for real estate loan agreements in this state and with the standards used by the
19 United States Department of Veterans Affairs and the Federal Housing Administration.

20 (3) Notwithstanding ORS 86.245 (5) and (7), the [director] **Department of Veterans' Affairs**
21 shall pay interest to a borrower or contract purchaser on funds deposited in the escrow account for
22 the borrower or contract purchaser in the manner and at the rate of interest described in ORS
23 86.245 (1) to (4).

24 (4) The [director] **department** shall adopt such rules as the [director] **department** considers
25 necessary to establish criteria for implementation of this section.

26 (5) As used in this section, "escrow account" means any account which is part of a real estate
27 loan agreement or purchase contract, whether incorporated into the agreement or contract or as
28 part of a separately executed document, whereby the borrower makes periodic prepayment to the
29 [director] **department** of estimated property taxes, and the [director] **department** pays the charges
30 out of the account at the due dates.

31 **SECTION 25.** ORS 407.177 is amended to read:

32 407.177. (1) When the [Director] **Department** of Veterans' Affairs considers such contracts nec-
33 essary to improve the financial condition of the loan program conducted under this chapter, the
34 [director] **department** is authorized to enter into contracts with lending institutions under which the
35 lending institutions may provide any of the following services:

- 36 (a) Processing of new loans and purchase contracts; and
- 37 (b) Management and servicing of new loans and purchase contracts.

38 (2) Contracts entered into by the [director] **department** under this section may provide that the
39 lending institution:

- 40 (a) Receive applications for loans for the acquisition of homes or farms under this chapter;
- 41 (b) Immediately investigate and process an application for a loan as provided by law; and
- 42 (c) For approved loans or contracts, if requested by the [director] **department**, service the loan
43 or purchase contract for a period of time specified by the [director] **department**.

44 (3) When a lending institution, pursuant to a contract authorized by this section, receives an
45 application for a loan for the acquisition of a manufactured home, as defined in ORS 197.295, the

1 lending institution shall investigate and process the application in the manner prescribed in the
2 contract between the lending institution and the [director] **department**.

3 (4) When a lending institution, pursuant to a contract authorized by this section, investigates
4 and processes a loan application that it considers eligible for approval under this chapter, the
5 lending institution shall notify the [director] **department** and state the reasons why the loan may
6 be approved under this chapter. The [director] **department** shall retain final authority to approve
7 or disapprove the loan. If the [director] **department** disapproves the loan, the [director] **department**
8 shall notify the lending institution and the applicant of the disapproval and shall indicate the rea-
9 sons for the disapproval. When the [director] **department** is satisfied that all requirements for ap-
10 proval of a loan have been met by the applicant and the lending institution and that the property
11 offered as security for the loan protects the interests of the state, the [director] **department** shall
12 transfer to the lending institution an amount of money from the Oregon War Veterans' Fund equal
13 to the loan amount approved by the [director] **department**. The lending institution shall disburse the
14 money in the manner prescribed by the [director] **department**. The lending institution shall record
15 the mortgage, trust deed, contract or other security agreement relating to the loan and then shall
16 forward all the original loan documents to the [director] **department**.

17 (5) All moneys received by a lending institution as payments on principal and interest for loans
18 made under this chapter shall be paid to the [director] **department** in accordance with the terms
19 of the contract between the [director] **department** and the lending institution.

20 (6) The [director] **department** and lending institution shall mutually agree upon the compen-
21 sation to be paid to the lending institution for services performed under a contract authorized by
22 this section. Such compensation may be a fixed annual payment or a percentage of the amount of
23 each loan or purchase contract processed or serviced by the lending institution under the contract.

24 (7) Contracts entered into under this section are exempt from the requirements of the provisions
25 of ORS chapter 279 regarding personal service contracts.

26 (8) As used in this section, "lending institution" means an entity that is licensed to conduct
27 business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mort-
28 gage loans and that, in the judgment of the [director] **department**, is capable of meeting the needs
29 of the [director] **department** in carrying out this chapter.

30 **SECTION 26.** ORS 407.177, as amended by section 273, chapter 794, Oregon Laws 2003, is
31 amended to read:

32 407.177. (1) When the [Director] **Department** of Veterans' Affairs considers such contracts nec-
33 cessary to improve the financial condition of the loan program conducted under this chapter, the
34 [director] **department** is authorized to enter into contracts with lending institutions under which the
35 lending institutions may provide any of the following services:

- 36 (a) Processing of new loans and purchase contracts; and
- 37 (b) Management and servicing of new loans and purchase contracts.

38 (2) Contracts entered into by the [director] **department** under this section may provide that the
39 lending institution:

- 40 (a) Receive applications for loans for the acquisition of homes or farms under this chapter;
- 41 (b) Immediately investigate and process an application for a loan as provided by law; and
- 42 (c) For approved loans or contracts, if requested by the [director] **department**, service the loan
43 or purchase contract for a period of time specified by the [director] **department**.

44 (3) When a lending institution, pursuant to a contract authorized by this section, receives an
45 application for a loan for the acquisition of a manufactured home, as defined in ORS 197.295, the

1 lending institution shall investigate and process the application in the manner prescribed in the
2 contract between the lending institution and the [director] **department**.

3 (4) When a lending institution, pursuant to a contract authorized by this section, investigates
4 and processes a loan application that it considers eligible for approval under this chapter, the
5 lending institution shall notify the [director] **department** and state the reasons why the loan may
6 be approved under this chapter. The [director] **department** shall retain final authority to approve
7 or disapprove the loan. If the [director] **department** disapproves the loan, the [director] **department**
8 shall notify the lending institution and the applicant of the disapproval and shall indicate the rea-
9 sons for the disapproval. When the [director] **department** is satisfied that all requirements for ap-
10 proval of a loan have been met by the applicant and the lending institution and that the property
11 offered as security for the loan protects the interests of the state, the [director] **department** shall
12 transfer to the lending institution an amount of money from the Oregon War Veterans' Fund equal
13 to the loan amount approved by the [director] **department**. The lending institution shall disburse the
14 money in the manner prescribed by the [director] **department**. The lending institution shall record
15 the mortgage, trust deed, contract or other security agreement relating to the loan and then shall
16 forward all the original loan documents to the [director] **department**.

17 (5) All moneys received by a lending institution as payments on principal and interest for loans
18 made under this chapter shall be paid to the [director] **department** in accordance with the terms
19 of the contract between the [director] **department** and the lending institution.

20 (6) The [director] **department** and lending institution shall mutually agree upon the compen-
21 sation to be paid to the lending institution for services performed under a contract authorized by
22 this section. Such compensation may be a fixed annual payment or a percentage of the amount of
23 each loan or purchase contract processed or serviced by the lending institution under the contract.

24 (7) Contracts entered into under this section are exempt from the requirements of the provisions
25 of ORS chapters 279, 279A, 279B and 279C regarding personal services contracts.

26 (8) As used in this section, "lending institution" means an entity that is licensed to conduct
27 business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mort-
28 gage loans and that, in the judgment of the [director] **department**, is capable of meeting the needs
29 of the [director] **department** in carrying out this chapter.

30 **SECTION 27.** ORS 407.179 is amended to read:

31 407.179. In addition to the powers described in ORS 407.177, the [Director] **Department** of Vet-
32 erans' Affairs also may delegate by contract to a lending institution any of the powers granted to
33 the [director] **department** in ORS 407.165 and 407.225. The [director] **department** shall retain final
34 authority to approve or disapprove loans and interpret the duties and responsibilities of borrowers
35 under this chapter.

36 **SECTION 28.** ORS 407.185 is amended to read:

37 407.185. In addition to, and not in lieu of, the audit required by ORS 297.210 the [Director] **De-**
38 **partment** of Veterans' Affairs may contract with an independent public accountancy organization
39 for a review of the cash flow projection for the loan program established under this chapter and
40 Article XI-A of the Oregon Constitution and of the assumptions used in developing that projection.
41 The review shall be conducted in accordance with the review guidelines developed by the American
42 Institute of Certified Public Accountants (AICPA). Such contract shall require a written report,
43 copies of which shall be provided to the Governor, the Secretary of State, the State Treasurer, the
44 President of the Senate, and the Speaker of the House of Representatives by the [director] **depart-**
45 **ment** no later than December 31 of each year. Payment for the services required under the contract

1 shall be paid from funds appropriated for the administration of the department [*of Veterans'*
2 *Affairs*].

3 **SECTION 29.** ORS 407.201 is amended to read:

4 407.201. (1) When making a loan or otherwise extending credit under this chapter with moneys
5 from the Oregon War Veterans' Fund, the [*Director*] **Department** of Veterans' Affairs shall comply
6 with Title I (Truth in Lending Act) of the Consumer Credit Protection Act, as amended (15 U.S.C.
7 1601 et seq.) in the same manner required for a bank or national bank, as defined in ORS 706.008,
8 when the bank extends credit in a transaction in which a security interest in real property is or
9 will be acquired.

10 (2) In addition to the requirements of subsection (1) of this section, the [*director*] **department**
11 shall notify each person seeking to acquire a home or farm under this chapter, prior to the signing
12 of a loan agreement or contract, of the variable interest rate provisions of ORS 407.275, 407.315,
13 407.325 and 407.335. Information required to be disclosed under this subsection includes a history
14 of the interest rate increases on loans during the preceding 10 years and an estimate of the financial
15 effect that an increase of one percent in the interest rate will have on the borrower's obligation
16 under the mortgage, contract or other security agreement.

17 **SECTION 30.** ORS 407.205 is amended to read:

18 407.205. (1) Applications for loans for acquisition of a home or farm under this chapter shall be
19 made to the [*Director*] **Department** of Veterans' Affairs. Loans exclusive of funds disbursed under
20 ORS 407.145 (2) and 407.275 (4) shall not exceed the maximum original principal balance permitted
21 on a single-family first mortgage loan by the Federal National Mortgage Association, as published
22 in its announcements and subsequently included in its Selling Guide, for a home or \$185,000 for a
23 farm at a rate of interest provided by ORS 407.325. Except as provided in subsection (2) of this
24 section, an eligible individual shall not receive or, under ORS 407.305, assume more than two loans
25 under this chapter. No applicant is entitled to borrow more than the maximum amount allowed un-
26 der this section, except that [*where*] **when** a loan is made on property which is destroyed by fire
27 or other natural hazard, taken through condemnation or lost or disposed of for a compelling reason
28 devoid of fault on the part of the applicant and [*where*] **when** the loan is repaid or the property is
29 transferred by deed or otherwise, [*such*] **the** loan may be excluded from consideration in computing
30 the maximum loan allowable. However, the loan right provided in this section may be restored not
31 more than once while an unrepaid balance remains on a previous loan granted to the applicant.

32 (2) The [*director*] **department** may allow an eligible individual to receive or, under ORS 407.305,
33 assume more than two loans under this chapter when:

34 (a) The loan received or assumed is an additional loan made for the improvement of the farm
35 or home acquired with an initial loan for the acquisition of that property; or

36 (b) The last official certification of record by the United States Department of Veterans Affairs
37 or any branch of the Armed Forces of the United States shows the eligible individual to be at least
38 50 percent disabled. However, a loan may be made to an eligible disabled veteran under this para-
39 graph only if the veteran must acquire a different principal residence for compelling medical reasons
40 or because the veteran is transferred by an employer for employment purposes or because the vet-
41 eran's spouse is transferred by an employer for employment purposes and the spouse provides more
42 than 50 percent of the household income.

43 (3) For the purposes of this section, an applicant owns a home when the applicant has fee simple
44 title to the home or is the purchaser of the home under a contract of sale or other instrument of
45 sale. Earnest money or preliminary sales agreements, options or rights of first refusal are not con-

1 tracts or instruments of sale under this subsection.

2 (4) As used in this section, "home" includes mobile homes and houseboats.

3 **SECTION 31.** ORS 407.225 is amended to read:

4 407.225. (1) When the [*Director*] **Department** of Veterans' Affairs receives an application pur-
5 suant to ORS 407.205, the [*director*] **department** shall immediately investigate and process it as
6 provided by law. The security for the loan shall consist of the property to be acquired by the vet-
7 eran as a home or a farm. The security shall be secured by a mortgage or security agreement in the
8 full amount of the loan which mortgage or security agreement shall be either a first lien or a lien
9 insured by mortgagee's title insurance against loss from any prior encumbrance. The [*director*] **de-**
10 **partment** may make subsequent loans for improvements to the security if there are no intervening
11 liens between the first lien of the [*director*] **department** created under this section and the recorded
12 liens upon the security securing repayment of such subsequent improvement loans. Such consecutive
13 liens, for the purposes of this chapter, shall be deemed collectively as a first lien upon the security.
14 The mortgage or security agreement shall provide that the borrower, or any subsequent owner of
15 the secured property, may pay all or any part of the loan at any time without penalty.

16 (2) A mobile home shall be secured by a security agreement in the full amount of the loan and
17 the [*director*] **department** shall perfect a security interest in favor of the State of Oregon. The se-
18 curity agreement shall provide that the borrower or any subsequent owner of the mobile home, may
19 pay all or any part of the loan at any time without penalty. The security agreement shall provide
20 for immediate acceleration of the unpaid balance of the loan if the mobile home is moved from the
21 original site listed in the security agreement without first obtaining the written consent of the [*di-*
22 *rector*] **department**. The security agreement shall also provide that removal of the mobile home to
23 a site outside of this state shall constitute an act of default and result in immediate acceleration
24 of the unpaid balance of the loan.

25 (3) Loans shall not exceed: 97 percent of the net appraised value on homes which are real
26 property; 85 percent of the net appraised value on homes which are not real property; and 90 per-
27 cent of the net appraised value on farms which are real property.

28 **SECTION 32.** ORS 407.275 is amended to read:

29 407.275. (1) Loans may be made bearing interest at the rate per annum prescribed as provided
30 by ORS 407.325. Loans may be amortized over a period of not more than 30 years for homes other
31 than mobile homes and not more than 40 years for farms. Loans for mobile homes may be amortized
32 over a period not exceeding the expected life of the mobile home, as determined by the [*Director*]
33 **Department** of Veterans' Affairs. The limitations contained in this subsection shall not preclude the
34 [*director*] **department** from later extending the amortization period.

35 (2) If the ownership of the secured property is transferred by deed or otherwise to anyone other
36 than the original borrower, the surviving spouse, unremarried former spouse, surviving child or
37 stepchild of the original borrower, a governmental entity when the secured property is transferred
38 for public use or a veteran eligible for a loan under this chapter and Article XI-A of the Oregon
39 Constitution, who assumes the previous loan for the property as described in ORS 407.305, the in-
40 terest from the date of transfer shall be at the rate per annum then fixed as provided by ORS
41 407.335. However, the [*director*] **department**, during the term of the loan, may periodically prescribe
42 the interest rates to be paid by the transferee.

43 (3) Ownership of property that constitutes security for a loan made under this chapter and Ar-
44 ticle XI-A of the Oregon Constitution [*shall*] **may** not be transferred by deed or otherwise to anyone
45 other than the surviving spouse, unremarried former spouse, surviving child or stepchild of the ori-

1 ginal borrower, or a veteran eligible for a loan under this chapter and Article XI-A of the Oregon
 2 Constitution, who assumes the previous loan as described in ORS 407.305, unless the property is
 3 used primarily as the principal residence of the transferee for at least two years after the transfer
 4 or such shorter period of time as the [director] **department** for good cause may allow.

5 (4) Mortgages, trust deeds or security agreements on property given to secure any loan made
 6 under ORS 407.125 or statutes supplementary thereof may provide that the taxes and insurance
 7 premiums may be paid by the [director] **department** from the Oregon War Veterans' Bond Sinking
 8 Account. The amount so paid may be added to and become part of the principal of the loan and be
 9 repaid as prescribed by the [director] **department**. The [director] **department** may prescribe any
 10 method or period for repayment of the amount so paid that is not in conflict with the mortgage, trust
 11 deed or security agreement. The [director] **department** may prescribe any method or period for re-
 12 payment of interest on the amount so paid that is not in conflict with the mortgage, trust deed, se-
 13 curity agreement or a separate agreement with the borrower.

14 **SECTION 33.** ORS 407.285 is amended to read:

15 407.285. (1) Notwithstanding the repeal of section 5, chapter 11, Oregon Laws 1982 (first special
 16 session), during the term of a loan for which the interest rate was initially fixed under section 5,
 17 chapter 11, Oregon Laws 1982 (first special session), the [Director] **Department** of Veterans' Affairs
 18 may periodically prescribe the interest rate to be paid by the transferee. However, the interest rate
 19 for such loans [shall] **may** not at any time be less than the rate initially fixed under section 5,
 20 chapter 11, Oregon Laws 1982 (first special session), nor exceed a rate per annum which is one
 21 percent higher than the rate initially fixed under section 5, chapter 11, Oregon Laws 1982 (first
 22 special session).

23 (2) The [director] **department** may prescribe the interest rate to be paid by the transferee at a
 24 rate greater than the rate described in subsection (1) of this section, but only to the extent neces-
 25 sary to avoid invoking the provisions of section 4, Article XI-A of the Oregon Constitution.

26 **SECTION 34.** ORS 407.295 is amended to read:

27 407.295. When an ownership interest or possession of a home or farm securing a loan received
 28 under this chapter is transferred to the spouse or former spouse of the original borrower as a result
 29 of any judicial order or judgment, the [Director] **Department** of Veterans' Affairs shall be notified
 30 in writing of the transfer by the transferee not later than 30 days after the transfer occurs. If the
 31 original borrower remains obligated under the order or judgment to make the payments on the
 32 principal and interest of the loan, the [director] **department** shall notify the transferee when any
 33 such loan payment is not received by the 30th day after the payment is due.

34 **SECTION 35.** ORS 407.315 is amended to read:

35 407.315. (1) When a veteran assumes a previous loan under ORS 407.305, the interest rate to be
 36 paid by the veteran from the date of assumption shall be the rate per annum prescribed periodically
 37 by the [Director] **Department** of Veterans' Affairs, taking into consideration the solvency of the
 38 loan program and the interest rates currently prevailing in this state for loans secured by owner-
 39 occupied residential property.

40 (2) The [director] **department** shall make a cash flow projection to determine if assumptions at
 41 the interest rate established under subsection (1) of this section are among the causes of a negative
 42 cash flow projection for the loan program. The cash flow projection required by this section shall
 43 be an estimate of the revenue received from the repayment of mortgages, interest earnings, admin-
 44 istrative expenses of the loan program, payment of interest and principal on outstanding debt and
 45 other relevant factors during the period in which current outstanding bonds are required to be re-

1 tired.

2 (3) If the cash flow projection required under subsection (2) of this section indicates that as-
3 sumptions of loans at the interest rate established under subsection (1) of this section are a cause
4 of a negative cash flow projection for the loan program, the [director] **department**, by rule and
5 notwithstanding ORS 407.325 (2), shall increase the interest rate to be paid for loans assumed under
6 ORS 407.305 to the lowest rate per annum that assures a positive cash flow projection, but not ex-
7 ceeding the rate then prescribed under ORS 407.325.

8 **SECTION 36.** ORS 407.325 is amended to read:

9 407.325. (1) The [Director] **Department** of Veterans' Affairs, with the advice of the Advisory
10 Committee, will periodically, during the term of the loan, prescribe the interest rates to be paid by
11 the applicant, taking into consideration the current value of the money, the solvency of the loan
12 program, and the rates' effect on veterans. If the [director] **department**, after considering the factors
13 specified in this section, determines that there is an economic need for a higher rate of interest on
14 loans made for the acquisition of mobile homes and houseboats, the [director] **department** shall
15 prescribe the rate of interest for the acquisition of a mobile home or houseboat at not higher than
16 two percent more per annum than the basic rate established by this section.

17 (2) Except as provided in subsection (3) of this section:

18 (a) The rate of interest on loans granted on or after May 27, 1971, and originally set at five and
19 nine-tenths percent per annum [shall] **may** not be increased to more than seven and nine-tenths
20 percent per annum.

21 (b) The rate of interest on loans granted on or after January 1, 1981, and originally set at seven
22 and two-tenths percent per annum [shall] **may** not be increased to more than nine and two-tenths
23 percent per annum.

24 (c) The rate of interest on a loan granted on or after May 27, 1971, for the acquisition of a
25 mobile home or houseboat originally set at seven and nine-tenths percent per annum [shall] **may** not
26 be increased to more than nine and nine-tenths percent per annum.

27 (3) The [director] **department** may prescribe the interest rates to be paid by the applicant at a
28 rate greater than the rates described in subsection (2) of this section, but only if the [director] **de-**
29 **partment** determines, at the sole discretion of the [director] **department**, that such action reduces
30 the probability that invoking the provisions of section 4, Article XI-A of the Oregon Constitution
31 will become necessary.

32 (4) When, during two consecutive fiscal years, the cash flow projection and the review of the
33 projection performed under ORS 407.185 indicate that the Oregon War Veterans' Bond Sinking Ac-
34 count will maintain a balance throughout the term of the projections that exceeds the succeeding
35 years' debt service and operating expenses for the loan program, the [director] **department** shall
36 prepare a program for reducing the interest rates charged under this section in such a manner as
37 to insure the future solvency and self-supporting nature of the loan program. However, no reduction
38 in interest rates shall occur if the variable rate debt, if converted to a fixed rate, requires retention
39 of the amounts in order to meet projections.

40 (5) Notwithstanding the rate prescribed for acquisition of a home as provided in subsections (1)
41 to (4) of this section, the [director] **department** may periodically establish separate and distinct in-
42 terest rates for home improvement loans.

43 **SECTION 37.** ORS 407.327 is amended to read:

44 407.327. (1) The [Director] **Department** of Veterans' Affairs may prescribe fixed or variable
45 rates on the following:

1 (a) Loans or purchase contracts made after September 27, 1987, for acquisition of homes or
2 farms.

3 (b) Obligations on loans or purchase contracts made on or before September 27, 1987, where
4 ownership of the property subject to the loan or purchase contract is transferred after September
5 27, 1987.

6 (2) The *[director]* **department** may modify loan agreements or purchase contracts made before
7 September 27, 1987, by changing fixed interest rates to variable or variable interest rates to fixed,
8 if all the parties to such loan agreements or contracts agree in writing to such modification.

9 **SECTION 38.** ORS 407.335 is amended to read:

10 407.335. (1) The rate of interest referred to in ORS 407.275 (2) shall be prescribed periodically
11 by the *[Director]* **Department** of Veterans' Affairs, taking into consideration the solvency of the
12 loan program and the interest rates currently prevailing in this state for loans secured by residen-
13 tial property. However, a transfer *[shall]* **may** not be made at a rate lower than the interest rate
14 existing on the loan immediately prior to the transfer.

15 (2) When the *[director]* **department** considers it necessary to change the rate of interest under
16 subsection (1) of this section, the *[director]* **department**, after 30 days' notice to the public, may
17 prescribe a new rate under this section.

18 (3) During the term of a loan for which the interest rate was initially prescribed under sub-
19 section (1) of this section, the *[director]* **department** may periodically prescribe the interest rate to
20 be paid by the transferee. However, the interest rate for such loans *[shall]* **may** not at any time be
21 less than the rate initially prescribed under subsection (1) of this section nor exceed a rate which
22 is one percent higher than the rate initially prescribed under subsection (1) of this section.

23 (4) The *[director]* **department** may prescribe the interest rate to be paid by the transferee at a
24 rate greater than the rate described in subsection (3) of this section, but only to the extent neces-
25 sary to avoid invoking the provisions of section 4, Article XI-A of the Oregon Constitution.

26 (5) Except for a sale or transfer to the original borrower, the surviving spouse, unremarried
27 former spouse, surviving child or stepchild of the original borrower, or a veteran eligible for a loan
28 under this chapter and Article XI-A of the Oregon Constitution, only one sale or transfer of the
29 property referred to in ORS 407.275 (2) is permitted after July 20, 1983. In the event of a second sale
30 or transfer of the property, or any part thereof, the entire unpaid balance of the loan for the prop-
31 erty may become immediately due and payable at the discretion of the *[director]* **department** as
32 prescribed by rule.

33 **SECTION 39.** ORS 407.349 is amended to read:

34 407.349. When a periodic installment payment due under a loan agreement or purchase contract
35 made pursuant to this section and ORS 407.169 or under a prior agreement or contract authorizing
36 a late charge is not received by the *[Director]* **Department** of Veterans' Affairs by the due date, the
37 *[director]* **department** may impose a late charge with respect to any such payment as prescribed in
38 ORS 86.160 to 86.185.

39 **SECTION 40.** ORS 407.375 is amended to read:

40 407.375. (1) When the *[Director]* **Department** of Veterans' Affairs offers for sale a home or farm
41 obtained for and in behalf of the state under ORS 407.135 and 407.145 (1), the *[director]* **department**
42 shall provide notice of the proposed sale to prospective purchasers. The notice shall state the min-
43 imum bid that will be accepted.

44 (2) Subject to subsection (3) of this section, the *[director]* **department** shall accept the highest
45 such bid or offer received during the 15-day period after a home or farm acquired under ORS 407.135

1 or 407.145 (1) is first offered for sale unless the person making the highest bid or offer is disqualified
2 from such purchase based on prior credit history, inadequate income or other grounds for refusal
3 established in rules adopted by the [*director*] **department**. Prior to such refusal, the person making
4 the highest bid or offer shall be given the opportunity to purchase the property for cash.

5 (3) When the highest bid under subsection (2) of this section is made by a person who is not
6 eligible for a loan under Article XI-A of the Oregon Constitution, the person who submits the high-
7 est bid or offer received from those persons eligible for a loan under Article XI-A of the Oregon
8 Constitution shall be given the opportunity to purchase the property for the amount bid by the
9 highest bidder. The property must be purchased by matching the highest bid within a period of time
10 and at a place specified by rule of the [*director*] **department**.

11 (4) When the [*director*] **department** sells a home or farm obtained under ORS 407.135 or 407.145
12 (1) to a person, the [*director*] **department** may accept improvement of the property by such pur-
13 chaser in lieu of other means of satisfying the requirements of ORS 407.225 (3). For the purpose of
14 this section, all purchasers are subject to the provisions of ORS 407.225 (3). The [*director*] **depart-**
15 **ment** shall require the purchaser to provide an improvement plan containing a description of the
16 proposed improvements to be made and the cost of the necessary work and materials. An appraiser
17 employed by the [*director*] **department** must certify that the ratio of the purchase price and the net
18 appraised value of the home and farm after the proposed improvement is completed will satisfy the
19 requirements of ORS 407.225 (3). The [*director*] **department** may then approve the sale subject to
20 the condition that the improvement of the home or farm be completed within 180 days after pur-
21 chase. Failure by the applicant to complete the improvement within the time allowed shall be con-
22 sidered a breach of the purchase agreement and grounds for foreclosure by the [*director*]
23 **department**. Upon timely application and a showing that the improvement cannot be completed
24 within the time allowed because of circumstances beyond the applicant's control, the [*director*] **de-**
25 **partment** may grant the applicant an additional period not to exceed 180 days in which to complete
26 the improvement.

27 (5) The rate of interest for a contract made for the acquisition of a home or farm obtained by
28 the [*director*] **department** under ORS 407.135 or 407.145 (1) shall be the rate per annum prescribed
29 by the [*director*] **department**.

30 (6) Notwithstanding subsection (5) of this section, if the provisions of subsections (1) to (3) of
31 this section have been complied with and no satisfactory bid has been received, the [*director*] **de-**
32 **partment**, after considering the time value of money, may sell the home or farm at a private nego-
33 tiated sale at any price or at any rate of interest, either fixed or variable, that the [*director*]
34 **department** considers to be necessary and prudent to sell the property and that provides an eco-
35 nomic benefit to the home and farm loan program that is equivalent to the property being marketed
36 at the current appraised value of the property and the rate prescribed under subsection (5) of this
37 section.

38 (7) Except as provided in this subsection, redemption of a home or farm obtained and sold by
39 the [*director*] **department** under ORS 407.135 or 407.145 (1) shall be made as provided in ORS 18.565
40 to 18.594. When the [*director*] **department** accepts improvement of property by a purchaser in lieu
41 of purchase money or cash down payment under subsection (4) of this section, redemption shall be
42 made by paying an amount equal to the fair market value of those improvements actually made to
43 the property under the improvement plan described in subsection (4) of this section, with interest
44 thereon at the rate of nine percent per annum from the date of sale. The [*director*] **department** shall
45 determine the fair market value of the improvements and such amount shall be paid in addition to

1 the amount of purchase money and interest thereon required under ORS 18.582 (2).

2 **SECTION 41.** ORS 407.377 is amended to read:

3 407.377. If the [*Director*] **Department** of Veterans' Affairs enters into any personal services
4 contract under which any other person is authorized to sell or manage homes or farms obtained for
5 and in behalf of this state under ORS 407.135 and 407.145 (1), then ORS 407.375 may not apply to
6 the sale of such homes or farms by that person.

7 **SECTION 42.** ORS 407.385 is amended to read:

8 407.385. (1) Money received as a loan under this chapter shall be used only for the acquisition
9 of a home or farm.

10 (2) Except as provided in this section, use of all or any part of a loan received under this
11 chapter for investment or any purpose other than the acquisition of a home or farm constitutes an
12 act of default and results in immediate acceleration of the unpaid balance of the loan.

13 (3) When the [*Director*] **Department** of Veterans' Affairs determines that a borrower is using
14 loan moneys in violation of this section, the [*director*] **department** shall immediately commence any
15 action or proceeding necessary to recover for the state those moneys or any property obtained
16 therewith.

17 (4) A failure by a borrower to move into the home or farm securing the borrower's loan and to
18 use it as the borrower's principal residence within 60 days after the loan or assumption is made, or
19 within such extension as may be granted in writing by the [*director*] **department**, shall be conclu-
20 sively presumed to constitute a violation of this section. A request for an extension for good cause
21 shall be made in writing within the 60-day period. The applicant may file a written request for a
22 hearing within 30 days after a denial of the request for extension.

23 (5) The [*director shall*] **department may** not approve any rental or lease of a home or farm that
24 affects the federally tax exempt status of bonds issued under Article XI-A of the Oregon Constitu-
25 tion. When the rental or lease does not affect the federally tax exempt status of such federally tax
26 exempt bonds, the [*director*] **department** may approve in writing the rental or lease of a home or
27 farm after the home or farm is used as the principal residence of the borrower. The [*director*] **de-**
28 **partment** may establish factors to consider when determining whether to approve the rental of a
29 home or farm.

30 **SECTION 43.** ORS 407.415 is amended to read:

31 407.415. In order to provide funds for the purposes specified in Article XI-A of the Oregon
32 Constitution, bonds may be issued in accordance with the provisions of ORS 286.031 to 286.061.
33 Bonds issued under this section may be issued on a federally tax exempt or taxable basis. Bonds
34 issued on a federally tax exempt basis may be issued under any applicable provisions of the Internal
35 Revenue Code as may be determined by the [*Director*] **Department** of Veterans' Affairs. The [*di-*
36 *rector*] **department** shall enter into such covenants and agreements with bondholders as may be
37 necessary or appropriate to maintain the federally tax exempt status of interest on bonds issued on
38 a federally tax exempt basis.

39 **SECTION 44.** ORS 407.425 is amended to read:

40 407.425. In issuing bonds under ORS 407.415, the State Treasurer may structure an issue of
41 bonds with regard to amounts, maturity dates, interest rates and such other terms and conditions
42 of the bonds. In order to meet the specific requirements of a selected group of applicants for loans
43 under this chapter and before asking the State Treasurer to structure an issue of bonds under this
44 authority, the [*Director*] **Department** of Veterans' Affairs may consider factors including, but not
45 limited to, the number of applications and loans on hand, the amount of debt that will be financed

1 or refinanced by the issue, directly or indirectly, the solvency of the program as a whole, the cur-
2 rent value of money, the condition of the tax exempt and taxable bond markets and the effect of the
3 issue on all veterans.

4 **SECTION 45.** ORS 407.465 is amended to read:

5 407.465. (1) Subject to the limitations provided for in this chapter, the [*Director*] **Department**
6 of Veterans' Affairs may provide loan cancellation life insurance for any person who receives or
7 assumes a loan or makes a contract under this chapter for the acquisition of a home or farm, and
8 the spouse or former spouse of that person.

9 (2) [*Such*] **The** insurance may insure the life of the person who receives or assumes the loan or
10 who is the contract purchaser and the life of the spouse or former spouse of that person for all or
11 a portion of the amount of principal and interest due on the state loan or contract. However, for
12 each loan or contract, the lives of not more than two persons shall be insured. The State of Oregon
13 shall be named the beneficiary of the insurance. When an individual insured under this chapter dies,
14 the proceeds of the insurance shall be used to pay all or the insured portion of the balance of the
15 state loan or contract, and the [*director*] **department** shall issue a revised payment plan or a sat-
16 isfaction of the loan or contract.

17 (3) The Oregon Department of Administrative Services shall procure loan cancellation life in-
18 surance to meet the requirements of this chapter in compliance with the laws governing the pur-
19 chase and furnishing of services to state agencies.

20 **SECTION 46.** ORS 407.480 is amended to read:

21 407.480. As used in ORS 407.480 to 407.490:

22 (1) "Insurance" means any mortgage guarantee or mortgage insurance against financial loss by
23 reason of:

- 24 (a) Collection activity;
- 25 (b) Foreclosure; or
- 26 (c) Foreclosure by the [*Director*] **Department** of Veterans' Affairs under ORS 407.135.

27 (2) "Mortgage" includes a trust deed.

28 **SECTION 47.** ORS 407.485 is amended to read:

29 407.485. (1) The [*Director*] **Department** of Veterans' Affairs may enter into an agreement with
30 any public or private organization or with any federal or state governmental agency to provide in-
31 surance for qualified mortgages.

32 (2) The terms of the agreement for insurance, including the amount of insurance and the pre-
33 mium therefor, shall be agreed upon by the [*director*] **department** and the organization or agency.

34 (3) Insurance provided under this section [*shall*] **may** not exceed coverage of the loan balance
35 for property secured by a mortgage or trust deed to the [*Department of Veterans' Affairs*] **depart-**
36 **ment.**

37 (4) If a qualified borrower borrows an amount under this chapter that is 80 percent or less of
38 the net appraised value of the home or farm that secures the loan, the [*director*] **department** may
39 approve the loan without requiring insurance.

40 **SECTION 48.** ORS 407.490 is amended to read:

41 407.490. After assignment transfer and delivery by the [*Director*] **Department** of Veterans' Af-
42 fairs of all rights in the insured property to the organization or person providing insurance, the
43 [*director*] **department** shall not be liable to any borrower for any claim or grievance arising out of
44 the insurance agreement or the loan agreement.

45 **SECTION 49.** ORS 407.495 is amended to read:

1 407.495. (1) The money arising from the sale of each issue of bonds authorized under section 2,
2 Article XI-A, of the Oregon Constitution, shall be deposited in the State Treasury and be credited
3 to a special fund separate and distinct from the General Fund, to be known as the Oregon War
4 Veterans' Fund; which fund hereby is appropriated for the purpose of carrying out the provisions
5 of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415 and 407.515 to 407.565 and
6 to purchase bonds issued for the purposes of such provisions. With the approval of the [Director]
7 **Department** of Veterans' Affairs, the moneys in the fund not immediately required for loaning may
8 be invested as provided in ORS 293.701 to 293.820. The earnings from such investments shall inure
9 to the Oregon War Veterans' Fund.

10 (2) In addition to the money arising from the sale of such bonds, the Oregon War Veterans' Fund
11 shall also consist of:

12 (a) All moneys received as payments on principal and interest of loans made under ORS 407.125;

13 (b) All moneys received as accrued interest upon bonds sold;

14 (c) All moneys derived from tax levies provided for in ORS 291.445;

15 (d) All moneys derived from the sale, rental or administration of property acquired by foreclo-
16 sure or other proceeding, or deed;

17 (e) All moneys received as interest earned on the investment of moneys in the Oregon War
18 Veterans' Fund;

19 (f) All moneys received as proceeds from the sale of refunding bonds; and

20 (g) All other moneys accruing under this section and ORS 407.115, 407.125, 407.165, 407.205,
21 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565.

22 (3) All moneys in the Oregon War Veterans' Fund are continuously appropriated to the
23 [Director] **Department** of Veterans' Affairs for the following purposes:

24 (a) To carry out the provisions of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275,
25 407.415, 407.425, 407.435, 407.555 and 407.565;

26 (b) To purchase bonds issued for the purposes of such provisions; and

27 (c) Except for moneys derived from the sale of bonds or from tax levies, for payment of expenses
28 of the administration of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415,
29 407.425, 407.435, 407.555 and 407.565.

30 (4) With the approval of the [director] **department**, the moneys in the Oregon War Veterans'
31 Fund not immediately required to provide loans for the acquisition of farms and homes may be in-
32 vested as provided in ORS 293.701 to 293.820. The earnings from such investments shall be credited
33 to the Oregon War Veterans' Fund.

34 **SECTION 50.** ORS 407.505 is amended to read:

35 407.505. (1) When the [Director] **Department** of Veterans' Affairs determines that an applicant's
36 loan may be approved in accordance with this chapter, the [director] **department**, before making a
37 loan commitment, shall reserve an amount of money in the Oregon War Veterans' Fund equal to the
38 amount requested by the applicant to be used only for payment to the applicant which shall be set
39 aside in the Direct Commitment Reserve Account.

40 (2) Moneys in the Oregon War Veterans' Fund Direct Commitment Reserve Account shall be
41 reserved as loan proceeds for an applicant under subsection (1) of this section and [shall] **may** not
42 be used for any other purpose unless the applicant cancels the application for the loan prior to re-
43 ceipt of the loan proceeds.

44 **SECTION 51.** ORS 407.525 is amended to read:

45 407.525. If, at any time, there are applications for loans aggregating a total in excess of the

1 money available therefor in the Oregon War Veterans' Fund, the *[Director]* **Department** of Veter-
 2 ans' Affairs may transfer to said fund any moneys in the sinking account, except those derived from
 3 tax levies and those received from the sale of refunding bonds. When sufficient funds are available
 4 in the Oregon War Veterans' Fund, the *[director]* **department** may transfer back to the sinking ac-
 5 count an amount not exceeding the total so transferred from the sinking account to the Oregon War
 6 Veterans' Fund.

7 **SECTION 52.** ORS 407.555 is amended to read:

8 407.555. Except as provided in ORS 407.415, all claims duly approved by the *[Director]* **Depart-**
 9 **ment** of Veterans' Affairs, incurred in pursuance of ORS 407.115, 407.125, 407.165, 407.205, 407.275,
 10 407.415, 407.495 and 407.515 to 407.565, shall be paid by warrants drawn upon the State Treasurer
 11 by the Oregon Department of Administrative Services upon the appropriate funds for the payment
 12 of such claims.

13 **SECTION 53.** ORS 407.565 is amended to read:

14 407.565. The Oregon Department of Administrative Services is authorized to draw a warrant on
 15 the Oregon War Veterans' Fund in favor of the *[Director]* **Department** of Veterans' Affairs in a sum
 16 not to exceed \$2 million, which sum shall constitute an advance to be used in anticipation of the
 17 verified vouchers supplied in accordance with this section; and *[shall]* **may** be used only as a re-
 18 volving account, separate and distinct from the General Fund, to be maintained with the State
 19 Treasurer, for receipt and disbursement of moneys received under authority of ORS 407.165 and for
 20 payment of general operating expenses. All reimbursement vouchers for claims paid from the re-
 21 volving account shall be verified by the *[director]* **Department of Veterans' Affairs** and presented
 22 to the Oregon Department of Administrative Services for payment. The warrants issued by the
 23 **Oregon Department of Administrative Services** shall be drawn in favor of the *[director]* **Depart-**
 24 **ment of Veterans' Affairs** and shall be used to reimburse the revolving account.

25 **SECTION 54.** ORS 407.595 is amended to read:

26 407.595. No right, payment or proceeds of any loan made under ORS 407.125 or statutes sup-
 27 plementary thereof shall be subject to garnishment, attachment or execution or the claim of any
 28 creditor; nor shall any such right or payment be capable of assignment except as may be necessary
 29 for completion of any loan applied for and then only under such rules and regulations as may be
 30 prescribed by the *[Director]* **Department** of Veterans' Affairs.

31 **SECTION 55.** ORS 408.360 is amended to read:

32 408.360. (1) Subject to approval by the Director of the Oregon Department of Administrative
 33 Services as provided in section 3, chapter 795, Oregon Laws 1993, the Department of Veterans' Af-
 34 fairs is authorized to issue certificates of participation for the purposes of constructing an Oregon
 35 Veterans' Home.

36 (2) When issuance of the certificates of participation is approved by the Director of the Oregon
 37 Department of Administrative Services, the *[Director]* **Department** of Veterans' Affairs may issue
 38 the certificates of participation, but not earlier than the 120th day after September 8, 1993.

39 (3) The *[Director]* **Department** of Veterans' Affairs shall expend the proceeds from the sale of
 40 the certificates of participation for construction of an Oregon Veterans' Home and shall take any
 41 other action considered by the *[director]* **department** to be necessary or appropriate for the con-
 42 struction and operation of an Oregon Veterans' Home.

43 **SECTION 56.** ORS 113.085 is amended to read:

44 113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition,
 45 if there is no will or there is a will and it has been proved, the court shall appoint a qualified person

1 it finds suitable as personal representative, giving preference in the following order:

2 (a) To the executor named in the will.

3 (b) To the surviving spouse of the decedent or the nominee of the surviving spouse of the
4 decedent.

5 (c) To the nearest of kin of the decedent or the nominee of the nearest of kin of the decedent.

6 (d) To the Director of Human Services or a designee, if it appears the decedent received public
7 assistance pursuant to ORS chapter 411, 412, 413 or 414 and that such assistance is a claim against
8 the estate.

9 (e) To the [*Director*] **Department** of Veterans' Affairs, if the decedent was a protected person
10 under ORS 406.050 (7), and the [*director*] **department** has joined in the petition for such appoint-
11 ment.

12 (f) To any other person.

13 (2) Except as provided in subsection (3) of this section, the court shall appoint the Department
14 of State Lands as personal representative if it appears that the decedent died wholly intestate and
15 without known heirs. The Attorney General shall represent the Department of State Lands in the
16 administration of the estate. Any funds received by the Department of State Lands in the capacity
17 of personal representative may be deposited in accounts, separate and distinct from the General
18 Fund, established with the State Treasurer. Interest earned by such account shall be credited to that
19 account.

20 (3) The court may appoint a person other than the Department of State Lands to administer the
21 estate of a decedent who died wholly intestate and without known heirs if the person filing a peti-
22 tion under ORS 113.035 attaches written authorization from an estate administrator of the Depart-
23 ment of State Lands appointed under ORS 113.235 approving the filing of the petition by the person.
24 Except as provided by rule adopted by the Director of the Department of State Lands, an estate
25 administrator may consent to the appointment of another person to act as personal representative
26 only if it appears after investigation that the estate is insolvent.

27 **SECTION 57.** ORS 279.015 is amended to read:

28 279.015. (1) Subject to the policies and provisions of ORS 279.005 and 279.007, all public con-
29 tracts shall be based upon competitive bids or proposals except:

30 (a) Contracts made with other public agencies or the federal government.

31 (b) Contracts made with qualified nonprofit agencies providing employment opportunities for
32 disabled individuals.

33 (c) A public contract exempt under subsection (2) of this section.

34 (d) A contract for products, services or supplies if the value of the contract is less than \$5,000.

35 (e) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and
36 414.145.

37 (f) Contracts for repair, maintenance, improvement or protection of property obtained by the
38 [*Director*] **Department** of Veterans' Affairs under ORS 407.135 and 407.145 (1).

39 (g) Contracts between public agencies utilizing an existing solicitation or current requirement
40 contract of one of the public agencies that is party to the contract for which:

41 (A) The original contract met the requirements of this chapter;

42 (B) The contract allows other public agency usage of the contract; and

43 (C) The original contracting public agency concurs.

44 (h) If a project is competitively bid and all responsive bids from responsible bidders exceed the
45 public agency's cost estimate, the public agency, in accordance with rules adopted by the public

1 agency, may negotiate with the lowest responsive, responsible bidder, prior to awarding the con-
2 tract, in order to solicit value engineering and other options to attempt to bring the project within
3 the agency's cost estimate. A negotiation with the lowest responsive, responsible bidder pursuant
4 to this paragraph [shall] **may** not result in the award of the contract to that bidder if the scope of
5 the project is significantly changed from the original bid proposal. Notwithstanding any other pro-
6 vision of law, the records of a bidder used in contract negotiation pursuant to this paragraph are
7 not subject to public inspection until after the negotiated contract has been awarded or the negoti-
8 ation process has been terminated.

9 (2) Subject to subsection (6)(b) of this section, the Director of the Oregon Department of Ad-
10 ministrative Services, a local contract review board or, for contracts described in ORS 279.712 (2)(c),
11 the Director of Transportation may exempt certain public contracts or classes of public contracts
12 from the competitive bidding requirements of subsection (1) of this section upon approval of the
13 following findings submitted by the public contracting agency seeking the exemption:

14 (a) It is unlikely that such exemption will encourage favoritism in the awarding of public con-
15 tracts or substantially diminish competition for public contracts; and

16 (b) The awarding of public contracts pursuant to the exemption will result in substantial cost
17 savings to the public contracting agency or, if the contracts are for public improvements described
18 in ORS 279.712 (2)(c), to the agency or the public. In making such finding, the Director of the Oregon
19 Department of Administrative Services, the Director of Transportation or the local contract review
20 board may consider the type, cost, amount of the contract, number of persons available to bid and
21 such other factors as may be deemed appropriate.

22 (3)(a) Before final adoption of the findings required by subsection (2) of this section exempting
23 a contract for a public improvement, or a class of contracts for public improvements described in
24 ORS 279.712 (2)(c), from the requirement of competitive bidding, a public agency shall hold a public
25 hearing.

26 (b) Notification of the public hearing shall be published in at least one trade newspaper of
27 general statewide circulation a minimum of 14 days prior to the hearing.

28 (c) The notice shall state that the public hearing is for the purpose of taking comments on the
29 agency's draft findings for an exemption from the competitive bidding requirement. At the time of
30 the notice, copies of the draft findings shall be made available to the public. At the option of the
31 public agency, the notice may describe the process by which the findings are finally adopted and
32 may indicate the opportunity for any further public comment.

33 (d) At the public hearing, the public agency shall offer an opportunity for any interested party
34 to appear and present comment.

35 (e) If a public agency is required to act promptly due to circumstances beyond its control that
36 do not constitute an emergency, notification of the public hearing can be published simultaneously
37 with the agency's solicitation of contractors for the alternative public contracting method, as long
38 as responses to the solicitation are due at least five days after the meeting and approval of the
39 findings.

40 (4) A public contract also may be exempted from the requirements of subsection (1) of this sec-
41 tion if:

42 (a) Emergency conditions require prompt execution of the contract;

43 (b) In case of sale of surplus property by a public agency, the number, value and nature of the
44 items to be sold make it probable that the cost of conducting a sale by competitive bidding will be
45 such that a liquidation sale will result in substantially greater net revenue to the public agency;

1 (c) The procedures for entering into an energy savings performance contract under subsection
2 (8) of this section apply; or

3 (d)(A) The public contract is made between regularly organized fire departments, as defined in
4 ORS 652.050, for fire protection equipment, as defined in ORS 476.005, and:

5 (i) The recipient regularly organized fire department makes a written request for the fire pro-
6 tection equipment to the transferor regularly organized fire department;

7 (ii) The fire protection equipment is surplus to or unusable by the transferor;

8 (iii) The total fair market value of fire protection equipment received by the recipient does not
9 exceed \$50,000 per calendar year; and

10 (iv) The transferor holds a public hearing, with notice given as outlined in subsection (3)(b) of
11 this section, and finds that the public contract is in the public's interest.

12 (B) As used in subparagraph (A) of this paragraph, "public contract" includes a sale at no cost.

13 (5) The Director of the Oregon Department of Administrative Services or the local contract re-
14 view board shall adopt rules allowing the governing body of a public agency and the officer of a
15 public agency for contracts under \$50,000 to declare that an emergency exists and establishing
16 procedures for determining when the conditions in subsection (4)(a) of this section are present. The
17 rules shall prescribe that if an emergency is declared, any contract awarded under this subsection
18 and subsection (4)(a) of this section must be awarded within 60 days following declaration of the
19 emergency, unless the director or board grants an extension.

20 (6) In granting exemptions pursuant to subsection (2)(a) and (b) of this section, the Director of
21 the Oregon Department of Administrative Services, the Director of Transportation or the local
22 contract review board shall:

23 (a) Where appropriate, direct the use of alternate contracting and purchasing practices that take
24 account of market realities and modern or innovative contracting and purchasing methods, which
25 are also consistent with the public policy of encouraging competition.

26 (b) Require and approve or disapprove written findings by the public contracting agency that
27 support the awarding of a particular public contract or a class of public contracts, without the
28 competitive requirements of subsection (1) of this section. The findings must show that the ex-
29 emption of a contract or class of contracts complies with the requirements of subsection (2)(a) and
30 (b) of this section.

31 (7) A written agreement under ORS chapter 190 is not necessary under subsection (1)(g) of this
32 section if the arrangement is between or among units of local government.

33 (8) In accordance with ORS 279.049, the Attorney General shall adopt model rules appropriate
34 for use by all public contracting agencies to govern the procedures for entering into energy savings
35 performance contracts. Before adopting or amending a rule under this subsection, the Attorney
36 General shall consult with the Oregon Department of Administrative Services, the State Department
37 of Energy, the Oregon University System, local public agencies and other knowledgeable persons.
38 The Attorney General may develop standard contract forms for use with energy savings performance
39 contracts.

40 **SECTION 58.** ORS 279C.335 is amended to read:

41 279C.335. (1) All public improvement contracts shall be based upon competitive bids except:

42 (a) Contracts made with qualified nonprofit agencies providing employment opportunities for
43 disabled individuals under ORS 279.835 to 279.855.

44 (b) A public improvement contract exempt under subsection (2) of this section.

45 (c) A contract for goods or services if the value of the contract is less than \$5,000.

1 (d) A contract not to exceed \$100,000, or not to exceed \$50,000 in the case of a contract for a
2 highway, bridge or other transportation project, made under procedures for competitive quotes in
3 sections 132 and 133, chapter 794, Oregon Laws 2003.

4 (e) Contracts for repair, maintenance, improvement or protection of property obtained by the
5 [Director] **Department** of Veterans' Affairs under ORS 407.135 and 407.145 (1).

6 (2) Subject to subsection (3)(b) of this section, the Director of the Oregon Department of Ad-
7 ministrative Services, a local contract review board or, for contracts described in ORS 279A.050
8 (3)(b), the Director of Transportation may exempt a public improvement contract or a class of public
9 improvement contracts from the competitive bidding requirements of subsection (1) of this section
10 upon approval of the following findings submitted by the contracting agency seeking the exemption:

11 (a) It is unlikely that the exemption will encourage favoritism in the awarding of public im-
12 provement contracts or substantially diminish competition for public improvement contracts; and

13 (b) The awarding of public improvement contracts under the exemption will result in substantial
14 cost savings to the contracting agency or, if the contracts are for public improvements described in
15 ORS 279A.050 (3)(b), to the contracting agency or the public. In making the finding, the Director of
16 the Oregon Department of Administrative Services, the Director of Transportation or the local
17 contract review board may consider the type, cost and amount of the contract, the number of per-
18 sons available to bid and such other factors as may be deemed appropriate.

19 (3) In granting exemptions under subsection (2) of this section, the Director of the Oregon De-
20 partment of Administrative Services, the Director of Transportation or the local contract review
21 board shall:

22 (a) When appropriate, direct the use of alternate contracting methods that take account of
23 market realities and modern practices and are consistent with the public policy of encouraging
24 competition.

25 (b) Require and approve or disapprove written findings by the contracting agency that support
26 the awarding of a particular public improvement contract or a class of public improvement con-
27 tracts, without the competitive bidding requirement of subsection (1) of this section. The findings
28 must show that the exemption of a contract or class of contracts complies with the requirements
29 of subsection (2) of this section.

30 (4)(a) Before final adoption of the findings required by subsection (2) of this section exempting
31 a public improvement contract or a class of public improvement contracts from the requirement of
32 competitive bidding, a contracting agency shall hold a public hearing.

33 (b) Notification of the public hearing shall be published in at least one trade newspaper of
34 general statewide circulation a minimum of 14 days before the hearing.

35 (c) The notice shall state that the public hearing is for the purpose of taking comments on the
36 contracting agency's draft findings for an exemption from the competitive bidding requirement. At
37 the time of the notice, copies of the draft findings shall be made available to the public. At the op-
38 tion of the contracting agency, the notice may describe the process by which the findings are finally
39 adopted and may indicate the opportunity for any further public comment.

40 (d) At the public hearing, the contracting agency shall offer an opportunity for any interested
41 party to appear and present comment.

42 (e) If a contracting agency is required to act promptly due to circumstances beyond the con-
43 tracting agency's control that do not constitute an emergency, notification of the public hearing may
44 be published simultaneously with the contracting agency's solicitation of contractors for the alter-
45 native public contracting method, as long as responses to the solicitation are due at least five days

1 after the meeting and approval of the findings.

2 (5) A public improvement contract may be exempted from the requirement of subsection (1) of
3 this section if emergency conditions require prompt execution of the contract. In accordance with
4 rules adopted under ORS 279A.065, a contracting agency may declare that an emergency exists. If
5 an emergency is declared, any contract awarded under this subsection must be awarded within 60
6 days following declaration of the emergency, unless the Director of the Oregon Department of Ad-
7 ministrative Services or the local contract review board grants an extension.

8 **SECTION 59.** ORS 279C.335, as amended by section 104, chapter 794, Oregon Laws 2003, is
9 amended to read:

10 279C.335. (1) All public improvement contracts shall be based upon competitive bids except:

11 (a) Contracts made with qualified nonprofit agencies providing employment opportunities for
12 disabled individuals under ORS 279.835 to 279.855.

13 (b) A public improvement contract exempt under subsection (2) of this section.

14 (c) A contract for goods or services if the value of the contract is less than \$5,000.

15 (d) Contracts for repair, maintenance, improvement or protection of property obtained by the
16 *[Director]* **Department** of Veterans' Affairs under ORS 407.135 and 407.145 (1).

17 (2) Subject to subsection (3)(b) of this section, the Director of the Oregon Department of Ad-
18 ministrative Services, a local contract review board or, for contracts described in ORS 279A.050
19 (3)(b), the Director of Transportation may exempt a public improvement contract or a class of public
20 improvement contracts from the competitive bidding requirements of subsection (1) of this section
21 upon approval of the following findings submitted by the contracting agency seeking the exemption:

22 (a) It is unlikely that the exemption will encourage favoritism in the awarding of public im-
23 provement contracts or substantially diminish competition for public improvement contracts; and

24 (b) The awarding of public improvement contracts under the exemption will result in substantial
25 cost savings to the contracting agency or, if the contracts are for public improvements described in
26 ORS 279A.050 (3)(b), to the contracting agency or the public. In making the finding, the Director of
27 the Oregon Department of Administrative Services, the Director of Transportation or the local
28 contract review board may consider the type, cost and amount of the contract, the number of per-
29 sons available to bid and such other factors as may be deemed appropriate.

30 (3) In granting exemptions under subsection (2) of this section, the Director of the Oregon De-
31 partment of Administrative Services, the Director of Transportation or the local contract review
32 board shall:

33 (a) When appropriate, direct the use of alternate contracting methods that take account of
34 market realities and modern practices and are consistent with the public policy of encouraging
35 competition.

36 (b) Require and approve or disapprove written findings by the contracting agency that support
37 the awarding of a particular public improvement contract or a class of public improvement con-
38 tracts, without the competitive bidding requirement of subsection (1) of this section. The findings
39 must show that the exemption of a contract or class of contracts complies with the requirements
40 of subsection (2) of this section.

41 (4)(a) Before final adoption of the findings required by subsection (2) of this section exempting
42 a public improvement contract or a class of public improvement contracts from the requirement of
43 competitive bidding, a contracting agency shall hold a public hearing.

44 (b) Notification of the public hearing shall be published in at least one trade newspaper of
45 general statewide circulation a minimum of 14 days before the hearing.

1 (c) The notice shall state that the public hearing is for the purpose of taking comments on the
2 contracting agency's draft findings for an exemption from the competitive bidding requirement. At
3 the time of the notice, copies of the draft findings shall be made available to the public. At the op-
4 tion of the contracting agency, the notice may describe the process by which the findings are finally
5 adopted and may indicate the opportunity for any further public comment.

6 (d) At the public hearing, the contracting agency shall offer an opportunity for any interested
7 party to appear and present comment.

8 (e) If a contracting agency is required to act promptly due to circumstances beyond the con-
9 tracting agency's control that do not constitute an emergency, notification of the public hearing may
10 be published simultaneously with the contracting agency's solicitation of contractors for the alter-
11 native public contracting method, as long as responses to the solicitation are due at least five days
12 after the meeting and approval of the findings.

13 (5) A public improvement contract may be exempted from the requirement of subsection (1) of
14 this section if emergency conditions require prompt execution of the contract. In accordance with
15 rules adopted under ORS 279A.065, a contracting agency may declare that an emergency exists. If
16 an emergency is declared, any contract awarded under this subsection must be awarded within 60
17 days following declaration of the emergency, unless the Director of the Oregon Department of Ad-
18 ministrative Services or the local contract review board grants an extension.

19 **SECTION 60.** ORS 279C.335, as amended by sections 104 and 105a, chapter 794, Oregon Laws
20 2003, is amended to read:

21 279C.335. (1) All public improvement contracts shall be based upon competitive bids except:

22 (a) Contracts made with qualified nonprofit agencies providing employment opportunities for
23 disabled individuals under ORS 279.835 to 279.855.

24 (b) A public improvement contract exempt under subsection (2) of this section.

25 (c) A contract for goods or services if the value of the contract is less than \$5,000.

26 (d) Contracts for repair, maintenance, improvement or protection of property obtained by the
27 [Director] **Department** of Veterans' Affairs under ORS 407.135 and 407.145 (1).

28 (2) Subject to subsection (3)(b) of this section, the Director of the Oregon Department of Ad-
29 ministrative Services or a local contract review board may exempt a public improvement contract
30 or a class of public improvement contracts from the competitive bidding requirements of subsection
31 (1) of this section upon approval of the following findings submitted by the contracting agency
32 seeking the exemption:

33 (a) It is unlikely that the exemption will encourage favoritism in the awarding of public im-
34 provement contracts or substantially diminish competition for public improvement contracts; and

35 (b) The awarding of public improvement contracts under the exemption will result in substantial
36 cost savings to the contracting agency. In making the finding, the director or the local contract
37 review board may consider the type, cost and amount of the contract, the number of persons avail-
38 able to bid and such other factors as may be deemed appropriate.

39 (3) In granting exemptions under subsection (2) of this section, the director or the local contract
40 review board shall:

41 (a) When appropriate, direct the use of alternate contracting methods that take account of
42 market realities and modern practices and are consistent with the public policy of encouraging
43 competition.

44 (b) Require and approve or disapprove written findings by the contracting agency that support
45 the awarding of a particular public improvement contract or a class of public improvement con-

1 tracts, without the competitive bidding requirement of subsection (1) of this section. The findings
2 must show that the exemption of a contract or class of contracts complies with the requirements
3 of subsection (2) of this section.

4 (4)(a) Before final adoption of the findings required by subsection (2) of this section exempting
5 a public improvement contract or a class of public improvement contracts from the requirement of
6 competitive bidding, a contracting agency shall hold a public hearing.

7 (b) Notification of the public hearing shall be published in at least one trade newspaper of
8 general statewide circulation a minimum of 14 days before the hearing.

9 (c) The notice shall state that the public hearing is for the purpose of taking comments on the
10 contracting agency's draft findings for an exemption from the competitive bidding requirement. At
11 the time of the notice, copies of the draft findings shall be made available to the public. At the op-
12 tion of the contracting agency, the notice may describe the process by which the findings are finally
13 adopted and may indicate the opportunity for any further public comment.

14 (d) At the public hearing, the contracting agency shall offer an opportunity for any interested
15 party to appear and present comment.

16 (e) If a contracting agency is required to act promptly due to circumstances beyond the con-
17 tracting agency's control that do not constitute an emergency, notification of the public hearing may
18 be published simultaneously with the contracting agency's solicitation of contractors for the alter-
19 native public contracting method, as long as responses to the solicitation are due at least five days
20 after the meeting and approval of the findings.

21 (5) A public improvement contract may be exempted from the requirement of subsection (1) of
22 this section if emergency conditions require prompt execution of the contract. In accordance with
23 rules adopted under ORS 279A.065, a contracting agency may declare that an emergency exists. If
24 an emergency is declared, any contract awarded under this subsection must be awarded within 60
25 days following declaration of the emergency, unless the director or the local contract review board
26 grants an extension.

27 **SECTION 61.** ORS 279A.050 is amended to read:

28 279A.050. (1) Except as otherwise provided in the Public Contracting Code, a contracting agency
29 shall exercise all rights, powers and authority in accordance with the provisions of the Public
30 Contracting Code.

31 (2) Except as otherwise provided in the Public Contracting Code, for state agencies the Director
32 of the Oregon Department of Administrative Services has all of the rights, powers and authority
33 necessary to carry out the provisions of the Public Contracting Code.

34 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation
35 has all of the rights, powers and authority to:

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

39 (b) Procure or supervise the procurement of all goods, services, public improvements and per-
40 sonal services relating to the operation, maintenance or construction of highways, bridges and other
41 transportation facilities that are subject to the authority of the Department of Transportation; and

42 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
43 bidders on public improvement contracts related to the operation, maintenance or construction of
44 highways, bridges and other transportation facilities that are subject to the authority of the De-
45 partment of Transportation.

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

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

7 (6) The following specific limited authorities are subject to the provisions of the Public Con-
8 tracting Code:

9 (a) The Department of Human Services to procure or supervise the procurement of goods, ser-
10 vices and personal services for the construction, demolition, exchange, maintenance, operation and
11 equipping of housing:

12 (A) For the chronically mentally ill, subject to applicable provisions of ORS 426.504; and

13 (B) For the purpose of providing care to individuals with mental retardation or other develop-
14 mental disabilities, subject to applicable provisions of ORS 427.335;

15 (b) The State Department of Fish and Wildlife to procure or supervise the procurement of all
16 goods, services, public improvements and personal services relating to dams, fishways, ponds and
17 related fish and game propagation facilities;

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

20 (d) The Oregon Department of Aviation to procure or supervise the procurement of all goods,
21 services, public improvements and personal services related to airports owned or operated by the
22 state;

23 (e) The Economic and Community Development Department to procure or supervise the pro-
24 curement of all goods, services, personal services and public improvements related to its foreign
25 trade offices operating outside the state;

26 (f) The Attorney General to enter into contracts as necessary to exercise the authority granted
27 in ORS chapter 180;

28 (g) The Housing and Community Services Department to procure or supervise the procurement
29 of goods, services and personal services;

30 (h) The Department of Corrections to procure or supervise the procurement of goods, services
31 and personal services for the construction of all new buildings or additions for its institutions;

32 (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
33 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods for its
34 institutions;

35 (j) The [*Director*] **Department** of Veterans' Affairs to procure or supervise the procurement of
36 real estate broker and principal real estate broker services related to programs under the
37 [*director's*] **department's** authority; and

38 (k) Any state agency to make procurements when the agency is specifically authorized by any
39 provision of law other than the Public Contracting Code to enter into a contract.

40 **SECTION 62.** ORS 273.141 is amended to read:

41 273.141. In order to provide the Department of State Lands with the specialized assistance nec-
42 essary to its operations and the transaction of its business, and in addition to other agreements that
43 may be entered into under ORS 273.135, the department may enter into written agreements with the
44 state agencies designated in this section for the operation of programs and activities assigned to the
45 department. Subject to final review and approval by the State Land Board:

1 (1) The State Forestry Department may perform the functions assigned by the board that relate
2 to forest resources.

3 (2) The State Department of Geology and Mineral Industries may perform the functions of the
4 Department of State Lands that relate to mineral resources.

5 (3) The [*Director*] **Department** of Veterans' Affairs may perform the functions of the Department
6 of State Lands that relate to investment of funds in mortgages secured by real property.

7 (4) The State Treasurer may perform the functions of the Department of State Lands that relate
8 to investments of funds administered by the Department of State Lands not described in subsection
9 (3) of this section, and that relate to escheated property.

10 (5) The State Department of Agriculture may perform the functions assigned by the board and
11 the functions pertaining to management and regulation of grazing land and other agricultural lands.

12 **SECTION 63.** ORS 273.785 is amended to read:

13 273.785. (1) Excluded from the operation of ORS 273.551 and 273.775 to 273.790 are:

14 (a) Soil, clay, stone, sand and gravel acquired or used by state agencies for the purpose of con-
15 structing or repairing roads or other state facilities, or the proceeds from such materials;

16 (b) Any mineral or geothermal resource rights or proceeds therefrom acquired and held by the
17 State Fish and Wildlife Commission pursuant to Public Law 415, 75th Congress (50 Stat. 917, 16
18 U.S.C. 777); or if other disposition is required by federal rules or regulations or any agreement en-
19 tered into at the time of acquisition of the mineral or geothermal resource rights by the state;

20 (c) Proceeds of mineral and geothermal resource rights acquired by the state pursuant to ORS
21 530.010 and 530.030, other than those distributed under ORS 530.110 (1)(c);

22 (d) Any mineral or geothermal resource rights or proceeds therefrom acquired after January 1,
23 1974, for the state by the [*Director*] **Department** of Veterans' Affairs pursuant to ORS 88.720,
24 406.050 (2), 407.135 or 407.145. After consultation, the Department of State Lands and the
25 [*Director*] **Department** of Veterans' Affairs shall enter into an interagency agreement governing
26 consultation between them concerning mineral and geothermal resource values on properties ac-
27 quired for the state by the [*director*] **Department of Veterans' Affairs**. The [*Director*] **Department**
28 of Veterans' Affairs shall also adopt rules relating to the release of mineral and geothermal rights
29 on such properties; and

30 (e) Any mineral or geothermal resource rights or proceeds therefrom given by a donor to any
31 institution, department or activity under the control of the State Board of Higher Education that
32 are acquired or held for the state by the State Board of Higher Education pursuant to ORS chapters
33 351 and 567. In managing mineral or geothermal resource leases, the State Board of Higher Educa-
34 tion shall consult with the Department of State Lands in accordance with an interagency agreement
35 established by the department and the State Board of Higher Education governing consultation be-
36 tween the department and the State Board of Higher Education and governing management of such
37 mineral or geothermal resources.

38 (2) Notwithstanding ORS 273.780 (3), when the Department of State Lands offers real property
39 for sale, the department may not retain the right to mineral or geothermal resources if:

40 (a) On January 1, 2004, the real property was located:

41 (A) Inside an urban growth boundary; or

42 (B) Within an area zoned for residential use on a lot or parcel that is three acres or smaller in
43 size; and

44 (b) The value, if any, of the right to the mineral or geothermal resources is included in the total
45 sale price of the real property.

1 **SECTION 64.** ORS 270.100 is amended to read:

2 270.100. (1)(a) Before offering for sale any real property or equitable interest therein owned by
3 the state, the state agency acting for the state in such transaction shall report its intent of sale or
4 transfer to the Oregon Department of Administrative Services. The department, or the agency spe-
5 cifically designated by the department, shall notify other state agencies authorized to own real
6 property of the intended sale or transfer to determine whether acquisition of the real property or
7 interest therein would be advantageous to another state agency.

8 (b) The department shall give political subdivisions, as defined in ORS 271.005, the first oppor-
9 tunity after other state agencies to acquire, purchase, exchange or lease real property to be sold
10 or disposed of by the State of Oregon. The state agency responsible for selling or transferring the
11 property may require at the time of the sale or transfer that any state real property sold or trans-
12 ferred to a political subdivision, as defined in ORS 271.005, shall be for use for a public purpose or
13 benefit, and not be for resale to a private purchaser.

14 (c) If property is not disposed of under paragraph (a) or (b) of this subsection, in accordance
15 with rules adopted by the department, the state agency desiring to sell or transfer the property shall
16 cause it to be appraised by one or more competent and experienced appraisers. Except as provided
17 in ORS 273.825, if such property has an appraised value exceeding \$5,000 it shall not be sold to any
18 private person except after notice calling for such proposals as set forth in ORS 270.130.

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

20 (2) Before acquisition of any real property or interest therein by any state agency, except for
21 highway right of way acquired by the Department of Transportation and park properties acquired
22 by the State Parks and Recreation Department and property within the approved projected campus
23 boundaries for institutions of the Department of Higher Education, the state agency shall report its
24 intent of acquisition to the Oregon Department of Administrative Services. The department shall
25 notify other state agencies owning land of the intended acquisition to determine whether another
26 state agency desires to sell or transfer property which would meet the needs of the purchasing
27 agency. In accordance with rules adopted by the Oregon Department of Administrative Services, if
28 no other state agency desires to sell or transfer property which would meet the needs of the agency,
29 the agency may acquire the real property or interest therein, consistent with applicable provisions
30 of law.

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

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

- 36 (a) Property controlled by the State Department of Fish and Wildlife;
- 37 (b) State forestlands controlled by the State Forestry Department;
- 38 (c) Property controlled by the Department of Transportation;
- 39 (d) Property controlled by the Department of State Lands;
- 40 (e) Property controlled by the Department of Higher Education;
- 41 (f) Property controlled by the legislative or judicial branches of state government; and
- 42 (g) Property controlled by the State Parks and Recreation Department.

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

1 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to
2 273.436, 273.551 and 308A.709 (1) to (4) do not apply to a home or farm acquired, sold, or both, by
3 the [Director] **Department** of Veterans' Affairs under ORS 88.720, 273.388, 406.050, 407.135, 407.145,
4 407.375 and 407.377.

5 **SECTION 65.** ORS 125.095 is amended to read:

6 125.095. (1) Funds of the protected person may be used to pay reasonable compensation to any
7 visitor, attorney, physician, fiduciary or temporary fiduciary for services rendered in the protective
8 proceeding or for services rendered on behalf of the fiduciary or protected person.

9 (2) Prior court approval is required before the payment of the fees of any visitor or physician
10 if the fees are incurred for services relating to proceedings arising out of the filing of an objection
11 to a petition or motion.

12 (3) Prior court approval is required before payment of compensation to a fiduciary or to the
13 attorneys for a fiduciary, except that prior court approval is not required before payment of com-
14 pensation to a conservator if the conservator is a trust company that has complied with ORS
15 709.030, or if the conservator is the [Director] **Department** of Veterans' Affairs.

16 **SECTION 66.** ORS 125.410 is amended to read:

17 125.410. (1) Except as provided in subsection (2) of this section, the court shall require a
18 conservator to furnish a bond conditioned upon faithful discharge of all duties of the conservator
19 according to law, with sureties as specified by the court. Unless otherwise directed, the bond must
20 be in the amount of the aggregate capital value of the property of the estate in the control of the
21 conservator plus one year's estimated income minus the value of securities and money deposited
22 under arrangements requiring an order of the court for their removal and the value of any real
23 property that the conservator, by express limitation of power, lacks power to sell or convey without
24 court authorization.

25 (2)(a) The court may waive a bond for good cause shown.

26 (b) Subsection (1) of this section does not affect the provisions of ORS 709.240, relating to a trust
27 company acting as fiduciary, ORS 125.715, relating to a public guardian acting as fiduciary, or ORS
28 406.050 (7), relating to the [Director] **Department** of Veterans' Affairs acting as fiduciary.

29 (3) Sureties for a bond required under this section are jointly and severally liable with the
30 conservator and with each other.

31 (4) Letters of conservatorship may not be issued until the bond required by this section is ap-
32 proved by the court.

33 (5) The bond of the conservator continues in effect until the sureties on the bond are released
34 by order of the court.

35 (6) The court may at any time increase or reduce the amount of the bond required of a
36 conservator for the protection of the protected person and the estate of the protected person.

37 (7) If a surety on a bond required by this section gives notice of intent to cancel the bond, the
38 conservator shall execute and file in the protective proceeding a new bond before the cancellation
39 date specified by the surety. The new bond shall be in the amount and subject to those conditions
40 that may be required by the court. If the conservator fails to file a new bond, the authority of the
41 conservator ends on the date specified by the surety for cancellation of the bond. The letters of
42 conservatorship issued to the conservator are void from that date, and the conservator must make
43 and file the final accounting of the conservator.

44 **SECTION 67.** ORS 88.710 is amended to read:

45 88.710. As used in ORS 88.710 to 88.740[:],

1 [(1) "Director" means the Director of Veterans' Affairs.]

2 [(2)] "lien" means any charge upon property for the payment or discharge of a debt, tax or duty
3 due the State of Oregon or any agency of the state, including judgment liens, recorded warrants or
4 any notice or claim of amount due given by the state, or an agency thereof, pursuant to law and
5 carried forward on the County Clerk Lien Record or the register of the circuit court of the county
6 wherein property is located to which a lien of the state attaches.

7 **SECTION 68.** ORS 88.720 is amended to read:

8 88.720. Whenever in the discretion of the [Director] **Department** of Veterans' Affairs such a
9 procedure would appear beneficial to the state, and on advice of the state agency charged with
10 collection of a tax, duty, debt or any sum owing the state for which a lien securing such debt, tax
11 or duty is being foreclosed by the state agency or by third parties, the [director] **department** may
12 bid in or redeem real or personal property ordered sold under foreclosure where such property is
13 subject to any lien held by the state at a price limited to the sum of the amount of the state lien
14 and all other prior liens plus costs but in no event to exceed the appraised value; acquire title to
15 real property for and in behalf of the state as a result of such foreclosure; accept deeds from
16 debtors, taxpayers or other persons owing a debt, tax or duty to the state in lieu of foreclosure;
17 make repairs, improvements or alterations; insure against loss or damage; pay taxes, liens and
18 charges of every kind superior to the lien of the state; and sell, transfer, lease or assign such
19 property for and in behalf of the state, or otherwise administer such property in such manner as the
20 [director] **department** deems for the best interest of the state in the same manner the [director]
21 **department** manages and conveys property pursuant to ORS 407.135; the [director] **department**
22 shall undertake to sell property after acquiring marketable title thereto, and while holding such
23 property [shall] **may** not engage in any enterprise competitive with private enterprise other than the
24 renting or leasing of such property or interests therein. The control of such property while title
25 remains vested in the state shall be exercised by the [director] **department**.

26 **SECTION 69.** ORS 88.740 is amended to read:

27 88.740. (1) The [Director] **Department** of Veterans' Affairs is authorized, in whatever manner
28 the [director] **department** considers advisable and to the extent necessary to carry out the pro-
29 visions of ORS 88.710 to 88.740, to use the surplus moneys in the Oregon War Veterans' Bond
30 Sinking Account, other than the moneys therein which are derived from tax levies and sales of re-
31 funding bonds, that are earnings in excess of the amount required to amortize the bonded indebt-
32 edness incurred under the authority of section 1, Article XI-A of the Oregon Constitution, and ORS
33 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495, 407.515, 407.555 and 407.565.

34 (2) The property acquired under ORS 88.710 to 88.740 shall represent an investment of the
35 Oregon War Veterans' Bond Sinking Account and all moneys received by the [director] **department**
36 from the sale, lease or other disposition of any property shall be deposited in the Oregon War Vet-
37 erans' Bond Sinking Account.

38 (3) The [director] **department** may pay to the State Treasurer, to be deposited in the General
39 Fund available for general governmental expenses:

40 (a) An amount equal to the balance owing on any existing real estate contract arising out of the
41 sale of property by the [director] **department** which was an investment of the General Fund pursu-
42 ant to ORS 88.710 to 88.740, and upon such payment the interest represented by the real estate
43 contract shall represent an investment of the Oregon War Veterans' Bond Sinking Account.

44 (b) An amount equal to the General Fund moneys expended for the acquisition of presently un-
45 sold properties pursuant to ORS 88.710 to 88.740, and upon such payment the properties shall rep-

1 resent an investment of the Oregon War Veterans' Bond Sinking Account.

2 **SECTION 70.** ORS 540.610 is amended to read:

3 540.610. (1) Beneficial use shall be the basis, the measure and the limit of all rights to the use
4 of water in this state. Whenever the owner of a perfected and developed water right ceases or fails
5 to use all or part of the water appropriated for a period of five successive years, the failure to use
6 shall establish a rebuttable presumption of forfeiture of all or part of the water right.

7 (2) Upon a showing of failure to use beneficially for five successive years, the appropriator has
8 the burden of rebutting the presumption of forfeiture by showing one or more of the following:

9 (a) The water right is for use of water, or rights of use, acquired by cities and towns in this
10 state, by appropriation or by purchase, for all reasonable and usual municipal purposes.

11 (b) A finding of forfeiture would impair the rights of such cities and towns to the use of water,
12 whether acquired by appropriation or purchase, or heretofore recognized by act of the legislature,
13 or which may hereafter be acquired.

14 (c) The use of water, or rights of use, are appurtenant to property obtained by the Department
15 of Veterans' Affairs under ORS 407.135 or 407.145 for three years after the expiration of redemptions
16 as provided in ORS 18.568 to 18.598 while the land is held by the [Director] **Department** of Veter-
17 ans' Affairs, even if during such time the water is not used for a period of more than five successive
18 years.

19 (d) The use of water, or rights of use, under a water right, if the owner of the property to which
20 the right is appurtenant is unable to use the water due to economic hardship as defined by rule by
21 the Water Resources Commission.

22 (e) The period of nonuse occurred during a period of time within which land was withdrawn
23 from use in accordance with the Act of Congress of May 28, 1956, chapter 327 (7 U.S.C. 1801-1814;
24 1821-1824; 1831-1837), or the Federal Conservation Reserve Program, Act of Congress of December
25 23, 1985, chapter 198 (16 U.S.C. 3831-3836, 3841-3845). If necessary, in a cancellation proceeding un-
26 der this section, the water right holder rebutting the presumption under this paragraph shall provide
27 documentation that the water right holder's land was withdrawn from use under a federal reserve
28 program.

29 (f) The end of the alleged period of nonuse occurred more than 15 years before the date upon
30 which evidence of nonuse was submitted to the commission or the commission initiated cancellation
31 proceedings under ORS 540.631, whichever occurs first.

32 (g) The owner of the property to which the water right was appurtenant is unable to use the
33 water because the use of water under the right is discontinued under an order of the commission
34 under ORS 537.775.

35 (h) The nonuse occurred during a period of time within which the water right holder was using
36 reclaimed water in lieu of using water under an existing water right.

37 (i) The nonuse occurred during a period of time within which the water right holder was reusing
38 water through land application as authorized by ORS 537.141 (1)(i) or 537.545 (1)(g) in lieu of using
39 water under an existing water right.

40 (j) The owner or occupant of the property to which the water right is appurtenant was unable
41 to make full beneficial use of the water because water was not available. A water right holder re-
42 butting the presumption under this paragraph shall provide evidence that the water right holder
43 was ready, willing and able to use the water had it been available.

44 (k) The holder of a water right is prohibited by law from using the water. If the prohibition is
45 subject to remedial action that would allow the use of the water, the water right holder shall pro-

1 vide evidence that the water right holder is conducting the remedial action with reasonable dili-
2 gence.

3 (L) The nonuse occurred during a period of time within which the exercise of all or part of the
4 water right was not necessary due to climatic conditions, so long as the water right holder had a
5 facility capable of handling the full allowed rate and duty, and was otherwise ready, willing and able
6 to use the entire amount of water allowed under the water right.

7 (m) The nonuse occurred during a period of time within which the water was included in a
8 transfer application pending before the Water Resources Department.

9 (3) Notwithstanding subsection (1) of this section, if the owner of a perfected and developed
10 water right uses less water to accomplish the beneficial use allowed by the right, the right is not
11 subject to forfeiture so long as:

12 (a) The user has a facility capable of handling the entire rate and duty authorized under the
13 right; and

14 (b) The user is otherwise ready, willing and able to make full use of the right.

15 (4) The right of all cities and towns in this state to acquire rights to the use of the water of
16 natural streams and lakes, not otherwise appropriated, and subject to existing rights, for all rea-
17 sonable and usual municipal purposes, and for such future reasonable and usual municipal purposes
18 as may reasonably be anticipated by reason of growth of population, or to secure sufficient water
19 supply in cases of emergency, is expressly confirmed.

20 (5) After a water right is forfeited under subsection (1) of this section, the water that was the
21 subject of use shall revert to the public and become again the subject of appropriation in the manner
22 provided by law, subject to existing priorities.

23 **SECTION 71.** Section 1, chapter 666, Oregon Laws 2001, as amended by section 51, chapter 14,
24 Oregon Laws 2003, is amended to read:

25 **Sec. 1.** As used in sections 1 to 18, chapter 666, Oregon Laws 2001, unless the context requires
26 otherwise:

27 (1) "Acquiesce in prohibited conduct" means that a person knew of the prohibited conduct and
28 knowingly failed to take reasonable action under the circumstances to terminate or avoid the use
29 of the property in the course of prohibited conduct. For purposes of this subsection, "reasonable
30 action under the circumstances" includes, but is not limited to:

31 (a) Reporting the prohibited conduct to a law enforcement agency;

32 (b) Commencing action that will assert the rights of the affiant as to the property interest;

33 (c) Terminating a rental agreement; or

34 (d) Seeking an abatement order under the provisions of ORS 105.505 to 105.520 or 105.550 to
35 105.600, or under any ordinance or regulation allowing abatement of nuisances.

36 (2) "All persons known to have an interest" means:

37 (a) Any person who has, prior to the time the property is seized for criminal forfeiture, filed
38 notice of interest with any public office as may be required or permitted by law to be filed with
39 respect to the property that has been seized for criminal forfeiture;

40 (b) Any person from whose custody the property was seized; or

41 (c) Any person who has an interest in the property, including all owners and occupants of the
42 property, whose identity and address is known or is ascertainable upon diligent inquiry and whose
43 rights and interest in the property may be affected by the action.

44 (3) "Attorney fees" has the meaning given that term in ORCP 68 A.

45 (4) "Financial institution" means any person lawfully conducting business as:

- 1 (a) A financial institution or trust company, as those terms are defined in ORS 706.008;
- 2 (b) A consumer finance company subject to the provisions of ORS chapter 725;
- 3 (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a mort-
- 4 gage servicing company or other mortgage company;
- 5 (d) An officer, agency, department or instrumentality of the federal government, including but
- 6 not limited to:
- 7 (A) The Secretary of Housing and Urban Development;
- 8 (B) The Federal Housing Administration;
- 9 (C) The **United States** Department of Veterans Affairs;
- 10 (D) The Farmers Home Administration;
- 11 (E) The Federal National Mortgage Association;
- 12 (F) The Government National Mortgage Association;
- 13 (G) The Federal Home Loan Mortgage Association;
- 14 (H) The Federal Agricultural Mortgage Corporation; and
- 15 (I) The Small Business Administration;
- 16 (e) An agency, department or instrumentality of this state, including but not limited to:
- 17 (A) The Housing and Community Services Department;
- 18 (B) [*Any entity established by the Director*] **The Department** of Veterans' Affairs [*to carry out*
- 19 *the provisions of ORS chapter 407*]; and
- 20 (C) The Public Employees Retirement System;
- 21 (f) An agency, department or instrumentality of any municipality in this state, including but not
- 22 limited to such agencies as the Portland Development Commission;
- 23 (g) An insurer as defined in ORS 731.106;
- 24 (h) A private mortgage insurance company;
- 25 (i) A pension plan or fund or other retirement plan; and
- 26 (j) A broker-dealer or investment adviser representative as defined in ORS 59.015.
- 27 (5) "Forfeiture counsel" means an attorney designated to represent a seizing agency in criminal
- 28 forfeiture actions or proceedings.
- 29 (6) "Instrumentality" means property that is used or intended for use in prohibited conduct or
- 30 that facilitates prohibited conduct.
- 31 (7) "Law enforcement agency" means any agency that employs police officers or prosecutes
- 32 criminal cases.
- 33 (8) "Official law enforcement use" means a use that may reasonably be expected to result in the
- 34 identification, apprehension or conviction of criminal offenders.
- 35 (9) "Police officer" has the meaning given that term in ORS 133.525.
- 36 (10) "Proceeds of prohibited conduct" means property derived directly or indirectly from, main-
- 37 tained by or realized through an act or omission that constitutes prohibited conduct, and includes
- 38 any benefit, interest or property of any kind without reduction for expenses of acquiring or main-
- 39 taining it or incurred for any other reason.
- 40 (11) "Prohibited conduct" means:
- 41 (a) For purposes of proceeds, a felony or a Class A misdemeanor.
- 42 (b) For purposes of instrumentalities, any crime listed in section 19, chapter 666, Oregon Laws
- 43 2001.
- 44 (12) "Property" means any interest in anything of value, including the whole of any lot or tract
- 45 of land and tangible and intangible personal property, including currency, instruments or securities

1 or any other kind of privilege, interest, claim or right whether due or to become due.

2 (13) "Seizing agency" means a law enforcement agency that has seized property for criminal
3 forfeiture.

4 (14) "Weapon" means any instrument of offensive or defensive combat or anything used, or de-
5 signed to be used, to destroy, defeat or injure a person.

6 **SECTION 72.** ORS 113.105 is amended to read:

7 113.105. (1) Unless a testator provides in a will that no bond shall be required of the executor
8 of the estate, or unless the personal representative is the sole heir or devisee or is the Department
9 of State Lands, or is the Director of Human Services or a designee, or is the [Director] **Department**
10 of Veterans' Affairs, the personal representative [shall] **may** not act nor shall letters be issued to
11 the personal representative until the personal representative files with the clerk of the court a bond.
12 The bond shall be executed by a surety company authorized to transact surety business in this state,
13 or by one or more sufficient personal sureties approved by the court. A personal surety must be a
14 resident of this state. The court may, in its discretion, require a bond notwithstanding any provision
15 in a will that no bond is required. The bond shall be for the security and benefit of all interested
16 persons and shall be conditioned upon the personal representative faithfully performing the duties
17 of the trust.

18 (2) The amount of the bond set by the court shall be adequate to protect interested persons, but
19 in no event shall it be less than \$1,000. In setting the amount of the bond the court shall consider:

20 (a) The nature, liquidity and apparent value of the assets of the estate.

21 (b) The anticipated income during administration.

22 (c) The probable indebtedness and taxes.

23 (3) Nothing in this section affects the provisions of ORS 709.240, relating to a trust company
24 acting as personal representative.

25 (4) Notwithstanding any other provisions of this section, a court may, in its discretion, waive
26 the requirement of a bond if all devisees and heirs known to the court agree in writing that the
27 requirement be waived and the signed agreement is filed with the court at the time of filing of the
28 petition for the appointment of a personal representative.

29 **SECTION 73.** ORS 291.445 is amended to read:

30 291.445. (1) Before July 1 of each fiscal year, the Oregon Department of Administrative Services
31 shall request from the appropriate state agency a certificate as prescribed in this section. The re-
32 quest shall be made by letter to the agency.

33 (2) Each state agency authorized to issue general obligation bonds that are ordinarily to be re-
34 paid from other than General Fund appropriations shall, on or before August 15 of each fiscal year:

35 (a) Certify to the Director of the Oregon Department of Administrative Services that the
36 amounts available or that will become available during the current year to the bond program debt
37 service fund to pay bond principal and interest that has accrued or will accrue during the current
38 year are sufficient and will be sufficient to pay bond program principal and interest scheduled for
39 payment during the current year; or

40 (b) Certify to the Director of the Oregon Department of Administrative Services that the
41 amounts available or that will become available during the current year to the bond program debt
42 service fund will not be sufficient to pay bond program principal and interest scheduled for payment
43 during the current year. A certificate issued under this paragraph shall specify the amount of the
44 anticipated current year deficit. The Director of the Oregon Department of Administrative Services
45 shall review and confirm the correctness of each certification made under this paragraph.

1 (3) On or before August 15 of each fiscal year, the Accounting Division of the Oregon Depart-
2 ment of Administrative Services, for each general obligation bond program in which the bond prin-
3 cipal and interest is ordinarily to be repaid from General Fund appropriations shall:

4 (a) Certify to the Director of the Oregon Department of Administrative Services that the
5 amounts available or that will become available during the current year from General Fund appro-
6 priations to defray program bond principal and interest that has accrued or will accrue during the
7 current year are sufficient and will be sufficient to pay program bond principal and interest sched-
8 uled for payment during the current year; or

9 (b) Certify to the Director of the Oregon Department of Administrative Services that the
10 amounts available or that will become available during the current year from General Fund appro-
11 priations will not be sufficient to pay program bond principal and interest scheduled for payment
12 during the current year. A certificate issued under this paragraph shall specify the amount of the
13 anticipated current year deficit.

14 (4)(a) If a deficit in funds available to pay principal and interest in any general obligation bond
15 program is certified and confirmed under subsection (2) or certified under subsection (3) of this
16 section, the amount of the deficit, together with any deficit that is certified for any other general
17 obligation bond program shall upon certification constitute a state tax levy on property that shall
18 be apportioned among and charged to the several counties in that proportion which the total as-
19 sessed value of all the taxable property in each county bears to the total assessed value of all the
20 taxable property of the state as equalized.

21 (b) If any agency fails to make the certification under subsection (2) or (3) of this section with
22 respect to any general obligation bond fund program, the Oregon Department of Administrative
23 Services shall determine the amount of revenue and other funds that are available and the amount
24 of taxes, if any, that should be levied in addition to the revenues and funds, to pay bond principal
25 and interest under the program for the fiscal year in question. The additional amount so determined
26 shall thereupon constitute a state tax levy on property that shall be apportioned, certified, collected
27 and distributed as if determined and certified as a deficit by the agency. The Oregon Department
28 of Administrative Services shall charge the agency for cost recovery for time spent on that agency's
29 behalf.

30 (5) Immediately after the department has determined the amount of a state tax levy on property
31 in accordance with subsection (4) of this section, a certificate of levy, signed by the director of the
32 department, shall be filed in the office of the department. If no state levy is required for the fiscal
33 or tax year, a certificate so stating and signed by the director shall be filed in the office of the de-
34 partment.

35 (6) If, for any reason, after the close of any regular biennial session of the Legislative Assembly,
36 it becomes necessary to reduce General Fund appropriations, General Fund appropriations for a debt
37 service fund of a general obligation bond program described under subsection (3) of this section shall
38 not be reduced.

39 (7) For purposes of this section:

40 (a) State agencies that are authorized to issue general obligation bonds ordinarily to be repaid
41 from other than General Fund appropriations include but are not limited to:

42 (A) The [Department] **Director** of Veterans' Affairs, as authorized by Article XI-A of the Oregon
43 Constitution and ORS chapter 407 (veterans loans).

44 (B) The State Board of Higher Education, as authorized by Article XI-F(1) of the Oregon Con-
45 stitution and ORS 351.350 (building projects).

1 (C) The Department of Environmental Quality, as authorized by Article XI-H of the Oregon
2 Constitution and ORS 468.195 to 468.260 (pollution control).

3 (D) The Water Resources Commission and the Water Resources Director, as authorized by Ar-
4 ticle XI-I(1) of the Oregon Constitution and ORS 541.700 to 541.855 (water development).

5 (E) The Housing Agency, as authorized by Article XI-I(2) of the Oregon Constitution and ORS
6 456.515 to 456.725 and 458.505 to 458.515 (housing).

7 (F) The Director of the State Department of Energy, as authorized by Article XI-J of the Oregon
8 Constitution and ORS 470.220 to 470.290 (small scale energy projects).

9 (G) Other agencies as required by the Oregon Department of Administrative Services by rule
10 adopted using the criterion of this subsection.

11 (b) Each agency authorized to issue general obligation bonds that are ordinarily to be repaid
12 from other than General Fund appropriations shall determine the amount of revenues or other funds
13 that are available and the amount of taxes, if any, that should be levied for the ensuing year in the
14 manner required under rules adopted by the Oregon Department of Administrative Services and
15 make the certification required under subsection (2) of this section.

16 (8)(a) State agencies that are authorized to issue general obligation bonds that are ordinarily to
17 be repaid from General Fund appropriations include but are not limited to:

18 (A) The State Board of Forestry and the State Forester, as authorized by Article XI-E of the
19 Oregon Constitution and ORS 530.210 to 530.280 (state reforestation).

20 (B) The State Board of Higher Education, as authorized by Article XI-G of the Oregon Consti-
21 tution and ORS 351.345 (higher education and community colleges).

22 (C) Other agencies as required by the Oregon Department of Administrative Services by rule
23 adopted using the criterion of this subsection.

24 (b) Each agency authorized to issue general obligation bonds ordinarily to be repaid from Gen-
25 eral Fund appropriations shall furnish any data required by the Oregon Department of Administra-
26 tive Services to determine the amount of revenues or other funds that are available and the amount
27 of taxes, if any, that should be levied for the ensuing year and the Accounting Division of the
28 Oregon Department of Administrative Services shall make the determination for purposes of the
29 making of the certification required under subsection (3) of this section.

30 **SECTION 74.** ORS 475A.005 is amended to read:

31 475A.005. As used in this chapter, unless the context requires otherwise:

32 (1) "All persons known to have an interest" means:

33 (a) Any person who has, prior to the time the property is seized for civil forfeiture, filed notice
34 of interest with any public office as may be required or permitted by law to be filed with respect
35 to the property which has been seized for civil forfeiture;

36 (b) Any person from whose custody the property was seized; or

37 (c) Any person who has an interest in the property, including all owners and occupants of the
38 property, whose identity and address is known or is ascertainable upon diligent inquiry and whose
39 rights and interest in the property may be affected by the action.

40 (2) "Attorney fees" has the meaning given that term in ORCP 68 A.

41 (3) "Financial institution" means any person lawfully conducting business as:

42 (a) A financial institution or trust company, as those terms are defined in ORS 706.008;

43 (b) A consumer finance company subject to the provisions of ORS chapter 725;

44 (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a mort-
45 gage servicing company or other mortgage company;

1 (d) An officer, agency, department or instrumentality of the federal government, including but
2 not limited to:

3 (A) The Secretary of Housing and Urban Development;

4 (B) The Federal Housing Administration;

5 (C) The **United States** Department of Veterans Affairs;

6 (D) The Farmers Home Administration;

7 (E) The Federal National Mortgage Association;

8 (F) The Government National Mortgage Administration;

9 (G) The Federal Home Loan Mortgage Association;

10 (H) The Federal Agricultural Mortgage Corporation; and

11 (I) The Small Business Administration;

12 (e) An agency, department or instrumentality of the state, including but not limited to:

13 (A) The Housing Agency;

14 (B) *[Any entity established by]* The *[Director]* **Department** of Veterans' Affairs *[to carry out the*
15 *provisions of ORS chapter 407]*; and

16 (C) The Public Employees Retirement System;

17 (f) An agency, department or instrumentality of any municipality in the state, including but not
18 limited to such agencies as the Portland Development Commission;

19 (g) An insurer as defined in ORS 731.106;

20 (h) A private mortgage insurance company;

21 (i) A pension plan or fund or other retirement plan; and

22 (j) A broker-dealer or investment adviser as defined in ORS 59.015.

23 (4) "Forfeiting agency" means the State of Oregon or a political subdivision thereof that has
24 accepted for civil forfeiture property seized by a seizing agency or that is processing a civil forfei-
25 ture case.

26 (5) "Forfeiture counsel" means an attorney designated to represent a forfeiting agency in civil
27 forfeiture actions or proceedings.

28 (6) "Instrumentalities" means any property that is instrumental in committing prohibited con-
29 duct or facilitating prohibited conduct.

30 (7) "Law enforcement agency" means any agency which employs police officers or prosecutes
31 criminal cases.

32 (8) "Police officer" has the meaning given that term in ORS 133.525.

33 (9) "Proceeds of prohibited conduct" means property derived directly or indirectly from, main-
34 tained by or realized through an act or omission, and includes any benefit, interest or property of
35 any kind without reduction for expenses of acquiring or maintaining it or incurred for any other
36 reason.

37 (10) "Prohibited conduct" means:

38 (a) Violation of, solicitation to violate, attempt to violate or conspiracy to violate any provisions
39 of ORS 475.005 to 475.285 and 475.805 to 475.999 when the conduct constitutes the commission of a
40 crime as described in ORS 161.515; and

41 (b) Other conduct that constitutes the commission of a crime as described in ORS 161.515 that
42 provides for civil forfeiture of proceeds or instrumentalities of the conduct and that is made subject
43 to the provisions of this chapter under ORS 475A.010 (4) or other law.

44 (11) "Property" means any interest in anything of value, including the whole of any lot or tract
45 of land and tangible and intangible personal property, including currency, instruments or securities

1 or any other kind of privilege, interest, claim or right whether due or to become due.

2 (12) "Seizing agency" means a law enforcement agency that has seized property for civil forfei-
3 ture.

4 (13) "Weapon" means any instrument of offensive or defensive combat or anything used, or de-
5 signed to be used, in destroying, defeating or injuring a person.

6 **SECTION 75.** ORS 475A.005, as amended by section 1a, chapter 780, Oregon Laws 2001, and
7 section 308, chapter 14, Oregon Laws 2003, is amended to read:

8 475A.005. As used in this chapter, unless the context requires otherwise:

9 (1) "All persons known to have an interest" means:

10 (a) Any person who has, prior to the time the property is seized for forfeiture, filed notice of
11 interest with any public office as may be required or permitted by law to be filed with respect to
12 the property which has been seized for forfeiture;

13 (b) Any person from whose custody the property was seized; or

14 (c) Any person who has an interest in the property, including all owners and occupants of the
15 property, whose identity and address is known or is ascertainable upon diligent inquiry and whose
16 rights and interest in the property may be affected by the action.

17 (2) "Attorney fees" has the meaning given that term in ORCP 68 A.

18 (3) "Costs and disbursements" are those expenditures set forth in ORCP 68 A.

19 (4) "Financial institution" means any person lawfully conducting business as:

20 (a) A financial institution or trust company, as those terms are defined in ORS 706.008;

21 (b) A consumer finance company subject to the provisions of ORS chapter 725;

22 (c) A mortgage banker or a mortgage broker as those terms are defined in ORS 59.840, a mort-
23 gage servicing company or other mortgage company;

24 (d) An officer, agency, department or instrumentality of the federal government, including but
25 not limited to:

26 (A) The Secretary of Housing and Urban Development;

27 (B) The Federal Housing Administration;

28 (C) The **United States** Department of Veterans Affairs;

29 (D) The Farmers Home Administration;

30 (E) The Federal National Mortgage Association;

31 (F) The Government National Mortgage Administration;

32 (G) The Federal Home Loan Mortgage Association;

33 (H) The Federal Agricultural Mortgage Corporation; and

34 (I) The Small Business Administration;

35 (e) An agency, department or instrumentality of the state, including but not limited to:

36 (A) The Housing Agency;

37 (B) [*Any entity established by*] The [*Director*] **Department** of Veterans' Affairs [*to carry out the*
38 *provisions of ORS chapter 407*]; and

39 (C) The Public Employees Retirement System;

40 (f) An agency, department or instrumentality of any municipality in the state, including but not
41 limited to such agencies as the Portland Development Commission;

42 (g) An insurer as defined in ORS 731.106;

43 (h) A private mortgage insurance company;

44 (i) A pension plan or fund or other retirement plan; and

45 (j) A broker-dealer or investment adviser as defined in ORS 59.015.

1 (5) "Forfeiting agency" means the State of Oregon or a political subdivision thereof that has
2 accepted for forfeiture property seized by a seizing agency or that is processing a forfeiture case.

3 (6) "Forfeiture counsel" means an attorney designated to represent a forfeiting agency in
4 forfeiture actions or proceedings.

5 (7) "Law enforcement agency" means any agency which employs police officers or prosecutes
6 criminal cases.

7 (8) "Official law enforcement use" or "official law enforcement activity" means uses or activities
8 which may reasonably be expected to result in the identification, apprehension or conviction of
9 criminal offenders.

10 (9) "Police officer" has the meaning given that term in ORS 133.525.

11 (10) "Proceeds of prohibited conduct" means property derived directly or indirectly from, main-
12 tained by or realized through an act or omission, and includes any benefit, interest or property of
13 any kind without reduction for expenses of acquiring or maintaining it or incurred for any other
14 reason.

15 (11) "Prohibited conduct" includes violation of, solicitation to violate, attempt to violate or
16 conspiracy to violate any provisions of ORS 475.005 to 475.285 and 475.805 to 475.999 when the
17 conduct constitutes either a felony or misdemeanor as those terms are defined in ORS 161.525 and
18 161.545.

19 (12) "Property" means any interest in anything of value, including the whole of any lot or tract
20 of land and tangible and intangible personal property, including currency, instruments or securities
21 or any other kind of privilege, interest, claim or right whether due or to become due.

22 (13) "Seizing agency" means a law enforcement agency that has seized property for forfeiture.

23 (14) "Weapon" means any instrument of offensive or defensive combat or anything used, or de-
24 signed to be used, in destroying, defeating or injuring a person.

25 **SECTION 76.** ORS 215.283 is amended to read:

26 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

27 (a) Public or private schools, including all buildings essential to the operation of a school.

28 (b) Churches and cemeteries in conjunction with churches.

29 (c) The propagation or harvesting of a forest product.

30 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
31 not including commercial facilities for the purpose of generating electrical power for public use by
32 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
33 may be established as provided in ORS 215.275.

34 (e)(A) A dwelling on real property used for farm use if the dwelling is occupied by a relative
35 of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grand-
36 child, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if
37 the farm operator does or will require the assistance of the relative in the management of the farm
38 use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator.

39 (B) Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under
40 ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing
41 or other financing secured by the dwelling and the secured party forecloses on the dwelling, the
42 secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
43 shall operate as a partition of the homesite to create a new parcel.

44 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with
45 farm use.

1 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
2 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
3 compressors, separators and other customary production equipment for an individual well adjacent
4 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
5 an exception under ORS 197.732 (1)(a) or (b).

6 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
7 construction relating to such operations shall not be a basis for an exception under ORS 197.732
8 (1)(a) or (b).

9 (i) A site for the disposal of solid waste that has been ordered to be established by the Envi-
10 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
11 necessary for its operation.

12 (j) The breeding, kenneling and training of greyhounds for racing.

13 (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

14 (L) Reconstruction or modification of public roads and highways, including the placement of
15 utility facilities overhead and in the subsurface of public roads and highways along the public right
16 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
17 would occur, or no new land parcels result.

18 (m) Temporary public road and highway detours that will be abandoned and restored to original
19 condition or use at such time as no longer needed.

20 (n) Minor betterment of existing public road and highway related facilities such as maintenance
21 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
22 public-owned property utilized to support the operation and maintenance of public roads and high-
23 ways.

24 (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
25 been listed in a county inventory as historic property as defined in ORS 358.480.

26 (p) Creation of, restoration of or enhancement of wetlands.

27 (q) A winery, as described in ORS 215.452.

28 (r) Farm stands if:

29 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
30 farm operation, or grown on the farm operation and other farm operations in the local agricultural
31 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
32 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
33 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
34 and

35 (B) The farm stand does not include structures designed for occupancy as a residence or for
36 activity other than the sale of farm crops or livestock and does not include structures for banquets,
37 public gatherings or public entertainment.

38 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

39 (A) Has intact exterior walls and roof structure;

40 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
41 a sanitary waste disposal system;

42 (C) Has interior wiring for interior lights;

43 (D) Has a heating system; and

44 (E) In the case of replacement, is removed, demolished or converted to an allowable nonresi-
45 dential use within three months of the completion of the replacement dwelling. A replacement

1 dwelling may be sited on any part of the same lot or parcel. A dwelling established under this par-
2 agraph shall comply with all applicable siting standards. However, the standards shall not be applied
3 in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a
4 portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of ap-
5 proval, shall execute and record in the deed records for the county where the property is located
6 a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The re-
7 striction imposed shall be irrevocable unless a statement of release is placed in the deed records for
8 the county. The release shall be signed by the county or its designee and state that the provisions
9 of this paragraph regarding replacement dwellings have changed to allow the siting of another
10 dwelling. The county planning director or the director's designee shall maintain a record of the lots
11 and parcels that do not qualify for the siting of a new dwelling under the provisions of this para-
12 graph, including a copy of the deed restrictions and release statements filed under this paragraph.

13 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
14 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
15 area or placed on a permanent foundation unless the building or facility preexisted the use approved
16 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
17 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
18 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
19 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
20 ground.

21 (u) A facility for the processing of farm crops located on a farm operation that provides at least
22 one-quarter of the farm crops processed at the facility. The building established for the processing
23 facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for
24 preparation, storage or other farm use or devote more than 10,000 square feet to the processing
25 activities within another building supporting farm uses. A processing facility shall comply with all
26 applicable siting standards but the standards shall not be applied in a manner that prohibits the
27 siting of the processing facility.

28 (v) Fire service facilities providing rural fire protection services.

29 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities
30 associated with a district as defined in ORS 540.505.

31 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
32 cilities or structures that end at the point where the utility service is received by the customer and
33 that are located on one or more of the following:

34 (A) A public right of way;

35 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
36 jacent property owners has been obtained; or

37 (C) The property to be served by the utility.

38 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
39 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
40 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
41 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
42 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
43 exclusive farm use zone under this chapter.

44 (2) The following nonfarm uses may be established, subject to the approval of the governing body
45 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

1 (a) Commercial activities that are in conjunction with farm use but not including the processing
2 of farm crops as described in subsection (1)(u) of this section.

3 (b) Operations conducted for:

4 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
5 as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

6 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
7 sources subject to ORS 215.298;

8 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

9 (D) Processing of other mineral resources and other subsurface resources.

10 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the
11 approval of the county governing body or its designee, a private campground may provide yurts for
12 overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller,
13 may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent
14 foundation. Upon request of a county governing body, the Land Conservation and Development
15 Commission may provide by rule for an increase in the number of yurts allowed on all or a portion
16 of the campgrounds in a county if the commission determines that the increase will comply with the
17 standards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed
18 shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or
19 internal cooking appliance.

20 (d) Parks and playgrounds. A public park may be established consistent with the provisions of
21 ORS 195.120.

22 (e) Community centers owned by a governmental agency or a nonprofit community organization
23 and operated primarily by and for residents of the local rural community. **A community center**
24 **authorized under this paragraph may provide services to veterans, including but not limited**
25 **to emergency and transitional shelter, preparation and service of meals, vocational and ed-**
26 **ucational counseling and referral to local, state or federal agencies providing medical, mental**
27 **health, disability income replacement and substance abuse services, only in a facility that is**
28 **in existence on the effective date of this 2005 Act. The services may not include direct de-**
29 **livery of medical, mental health, disability income replacement or substance abuse services.**

30 (f) Golf courses.

31 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

32 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
33 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
34 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
35 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
36 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
37 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
38 granted through waiver action by the Oregon Department of Aviation in specific instances. A
39 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
40 ject to any applicable rules of the Oregon Department of Aviation.

41 (i) Home occupations as provided in ORS 215.448.

42 (j) A facility for the primary processing of forest products, provided that such facility is found
43 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
44 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
45 renewable. These facilities are intended to be only portable or temporary in nature. The primary

1 processing of a forest product, as used in this section, means the use of a portable chipper or stud
2 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
3 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
4 contiguous land where the primary processing facility is located.

5 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
6 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
7 mental Quality together with equipment, facilities or buildings necessary for its operation.

8 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
9 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
10 hardship suffered by the existing resident or a relative of the resident. Within three months of the
11 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
12 ished or, in the case of an existing building, the building shall be removed, demolished or returned
13 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
14 view of the hardship claimed under this paragraph. A temporary residence approved under this
15 paragraph is not eligible for replacement under subsection (1)(s) of this section.

16 (m) Transmission towers over 200 feet in height.

17 (n) Dog kennels not described in subsection (1)(j) of this section.

18 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

19 (p) The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect
20 species shall not include any species under quarantine by the State Department of Agriculture or
21 the United States Department of Agriculture. The county shall provide notice of all applications
22 under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance
23 with the county's land use regulations but shall be mailed at least 20 calendar days prior to any
24 administrative decision or initial public hearing on the application.

25 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
26 but not resulting in the creation of new land parcels.

27 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
28 placement of buildings but not resulting in the creation of new land parcels.

29 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
30 stations and rest areas, where additional property or right of way is required but not resulting in
31 the creation of new land parcels.

32 (t) A destination resort which is approved consistent with the requirements of any statewide
33 planning goal relating to the siting of a destination resort.

34 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
35 dences.

36 (v) Operations for the extraction and bottling of water.

37 (w) Expansion of existing county fairgrounds and activities directly relating to county
38 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

39 (x)(A) A living history museum related to resource based activities owned and operated by a
40 governmental agency or a local historical society, together with limited commercial activities and
41 facilities that are directly related to the use and enjoyment of the museum and located within au-
42 thentic buildings of the depicted historic period or the museum administration building, if areas
43 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
44 the museum administration buildings and parking lot are located within one quarter mile of an ur-
45 ban growth boundary.

1 (B) As used in this paragraph:

2 (i) "Living history museum" means a facility designed to depict and interpret everyday life and
3 culture of some specific historic period using authentic buildings, tools, equipment and people to
4 simulate past activities and events; and

5 (ii) "Local historical society" means the local historical society recognized by the county gov-
6 erning body and organized under ORS chapter 65.

7 (y) An aerial fireworks display business that has been in continuous operation at its current
8 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
9 permit to sell or provide fireworks.

10 (3) Roads, highways and other transportation facilities and improvements not allowed under
11 subsections (1) and (2) of this section may be established, subject to the approval of the governing
12 body or its designee, in areas zoned for exclusive farm use subject to:

13 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
14 goal with which the facility or improvement does not comply; or

15 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
16 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

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