

## HOUSE AMENDMENTS TO HOUSE BILL 3325

By COMMITTEE ON VETERANS' AFFAIRS

May 11

1 In line 2 of the printed bill, delete "and 407.125" and insert ", 407.085, 407.125, 407.177, 407.201,  
2 407.205, 407.225, 407.265, 407.325, 407.327, 407.385, 407.465, 407.475 and 407.495".

3 Delete lines 5 through 26 and insert:

4 "**SECTION 1.** ORS 407.075 is amended to read:

5 "407.075. (1) The provisions of this chapter are intended to carry out the purposes of Article  
6 XI-A of the Oregon Constitution. The Legislative Assembly recognizes that its authority to define  
7 the scope and purpose of this chapter is limited by the purposes expressed in Article XI-A.

8 "(2) The primary purpose of this chapter is to provide loan funds to *[qualifying Oregon*  
9 *veterans]* **persons described in section 3, Article XI-A of the Oregon Constitution**, for the ac-  
10 quisition, **refinance** or improvement of farms *[and]* **or** homes. The Legislative Assembly does not  
11 intend, by any past or present enactment, to establish as a principal purpose of this chapter the  
12 providing of subsidized energy financing.

13 "**SECTION 2.** ORS 407.085 is amended to read:

14 "407.085. *[(1)]* As used in Article XI-A,*[]* **of the Oregon Constitution**,*[]* and this chapter, for the  
15 purposes of administration:

16 "[*(a)*] (1) 'Acquisition' means:

17 "[*(A)*] (a) Purchase *[and improvement]* of a home or farm*[:]*; **or**

18 "[*(B)*] (b) Payment of the balance of the purchase price and interest on a purchase contract **for**  
19 **a home or farm**, and the improvement of property *[thereby]* acquired **on the purchase contract**.

20 "[*(C)*] *Refinance of an existing purchase-money mortgage or mortgage in the nature thereof, and the*  
21 *improvement of property thereby purchased.*]

22 "[*(D)*] *Improvement of a home or farm.*]

23 "[*(b)*] (2) 'Bonds' includes, but is not limited to, serial bonds, term bonds, notes, obligations, lines  
24 of credit, revolving credit agreements, loans, **swaps or other** financing agreements or *[other]* evi-  
25 dence of indebtedness determined by the Director of Veterans' Affairs, with the approval of the  
26 State Treasurer, to be necessary or desirable to provide funds for the purposes expressed in Article  
27 XI-A of the Oregon Constitution.

28 "[*(2)*] *As used in this chapter:*]

29 "[*(a)*] (3) 'Committee' means the Advisory Committee provided for by ORS 406.210.

30 "[*(b)*] (4) 'Director' means the Director of Veterans' Affairs.

31 "[*(c)*] (5) 'Home' means any residential-type structure, including outbuildings and the real prop-  
32 erty in connection with it, if any, including long-term leaseholds, which is established, maintained  
33 and used primarily as a principal residence by the veteran.

34 "[*(d)*] (6) 'Improvement' means new construction, *[or]* any necessary or beneficial additions, al-  
terations or changes appurtenant to the home or farm *[which]* **or repairs or rehabilitation that**

1 protect or improve the basic livability or energy efficiency of the premises.

2 “[e] (7) ‘Mobile home’ means a structure, transportable in one or more sections, which is 10  
3 feet or more in width, and contains more than 500 square feet of living space figured on exterior  
4 dimensions of the structure, exclusive of any hitch and is designed to be used as a dwelling by one  
5 family, and which remains as personal property under the laws of this state.

6 “(8) ‘Refinance’ means obtaining, making, restructuring or replacing a loan on a home  
7 or farm to which the borrower or applicant already holds a title interest, regardless of  
8 whether the title interest is subject to a monetary encumbrance.

9 “(9) ‘Veteran’ means a person described in section 3, Article XI-A of the Oregon Consti-  
10 tution, who is eligible for a loan for the acquisition, refinance or improvement of a home or  
11 farm.

12 “**SECTION 3.** ORS 407.125 is amended to read:

13 “407.125. All moneys in the Oregon War Veterans’ Fund created by ORS 407.495 may be ad-  
14 vanced by the Director of Veterans’ Affairs as loans to any person qualified for loans under the  
15 provisions of section 3, Article XI-A[,] of the Oregon Constitution, for the acquisition, **refinance**  
16 **or improvement** of farms [and] **or** homes, as provided in ORS 407.115, 407.165, 407.205, 407.275,  
17 407.415, 407.495 and 407.515 to 407.565 and not otherwise.

18 “**SECTION 4.** ORS 407.475 is amended to read:

19 “407.475. Any person receiving or assuming a loan or making a contract under this chapter for  
20 the acquisition, **refinance or improvement** of a home or farm, and the spouse or former spouse of  
21 that person, may be insured under the insurance provided for by ORS 407.465 upon complying with  
22 such rules relating to that insurance as the director may adopt.

23 “**SECTION 5.** ORS 407.177, as amended by section 273, chapter 794, Oregon Laws 2003, is  
24 amended to read:

25 “407.177. (1) When the Director of Veterans’ Affairs considers [*such*] **the** contracts necessary to  
26 improve the financial condition of the loan program conducted under this chapter, the director is  
27 authorized to enter into contracts with lending institutions under which the lending institutions may  
28 provide any of the following services:

29 “(a) Processing of new loans and purchase contracts; and

30 “(b) Management and servicing of new loans and purchase contracts.

31 “(2) Contracts entered into by the director under this section may provide that the lending in-  
32 stitution:

33 “(a) Receive applications for loans for the acquisition, **refinance or improvement** of homes or  
34 farms under this chapter;

35 “(b) Immediately investigate and process an application for a loan as provided by law; and

36 “(c) For approved loans or contracts, if requested by the director, service the loan or purchase  
37 contract for a period of time specified by the director.

38 “(3) When a lending institution, pursuant to a contract authorized by this section, receives an  
39 application for a loan for the acquisition, **refinance or improvement** of a manufactured home, as  
40 defined in ORS 197.295, the lending institution shall investigate and process the application in the  
41 manner prescribed in the contract between the lending institution and the director.

42 “(4) When a lending institution, pursuant to a contract authorized by this section, investigates  
43 and processes a loan application that it considers eligible for approval under this chapter, the  
44 lending institution shall notify the director and state the reasons why the loan may be approved  
45 under this chapter. The director shall retain final authority to approve or disapprove the loan. If

1 the director disapproves the loan, the director shall notify the lending institution and the applicant  
2 of the disapproval and shall indicate the reasons for the disapproval. When the director is satisfied  
3 that all requirements for approval of a loan have been met by the applicant and the lending insti-  
4 tution and that the property offered as security for the loan protects the interests of the state, the  
5 director [*shall*] **may** transfer to the lending institution an amount of money from the Oregon War  
6 Veterans' Fund equal to the loan amount approved by the director. The lending institution shall  
7 disburse the money in the manner prescribed by the director. The lending institution shall record  
8 the mortgage, trust deed, contract or other security agreement relating to the loan and then shall  
9 forward all the original loan documents to the director.

10 “(5) All moneys received by a lending institution as payments on principal and interest for loans  
11 made under this chapter shall be paid to the director in accordance with the terms of the contract  
12 between the director and the lending institution.

13 “(6) The director and lending institution shall mutually agree upon the compensation to be paid  
14 to the lending institution for services performed under a contract authorized by this section.  
15 [*Such*] **The** compensation may be a fixed annual payment or a percentage of the amount of each loan  
16 or purchase contract processed or serviced by the lending institution under the contract.

17 “(7) Contracts entered into under this section are exempt from the requirements of the pro-  
18 visions of ORS chapters 279, 279A, 279B and 279C regarding personal services contracts.

19 “(8) As used in this section, ‘lending institution’ means an entity that is licensed to conduct  
20 business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mort-  
21 gage loans and that, in the judgment of the director, is capable of meeting the needs of the director  
22 in carrying out this chapter.

23 “**SECTION 6.** ORS 407.201 is amended to read:

24 “407.201. (1) When making a loan or otherwise extending credit under this chapter with moneys  
25 from the Oregon War Veterans' Fund, the Director of Veterans' Affairs shall comply with Title I  
26 (Truth in Lending Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.)  
27 in the same manner required for a bank or national bank, as defined in ORS 706.008, when the bank  
28 extends credit in a transaction in which a security interest in real property is or will be acquired.

29 “(2) In addition to the requirements of subsection (1) of this section, the director shall notify  
30 each person seeking to acquire, **refinance or improve** a home or farm under this chapter, prior to  
31 the signing of a loan agreement or contract, of the variable interest rate provisions of ORS 407.275,  
32 407.315, 407.325 and 407.335. Information required to be disclosed under this subsection includes a  
33 history of the interest rate increases on loans during the preceding 10 years and an estimate of the  
34 financial effect that an increase of one percent in the interest rate will have on the borrower's ob-  
35 ligation under the mortgage, contract or other security agreement.

36 “**SECTION 7.** ORS 407.205 is amended to read:

37 “407.205. (1) Applications for loans for acquisition, **refinance or improvement** of a home or  
38 farm under this chapter shall be made to the Director of Veterans' Affairs. Loans exclusive of funds  
39 disbursed under ORS 407.145 (2) and 407.275 (4) [*shall*] **may** not exceed the maximum original prin-  
40 cipal balance permitted on a single-family first mortgage loan by the Federal National Mortgage  
41 Association, as published in its announcements and subsequently included in its Selling Guide, for  
42 a home or \$185,000 for a farm at a rate of interest provided by ORS 407.325. Except as provided  
43 in subsection (2) of this section, an eligible individual shall not receive or, under ORS 407.305, as-  
44 sume more than two loans under this chapter. No applicant is entitled to borrow more than the  
45 maximum amount allowed under this section, except that [*where*] **when** a loan is made on property

1 [which] **that** is destroyed by fire or other natural hazard, taken through condemnation or lost or  
2 disposed of for a compelling reason devoid of fault on the part of the applicant and [where] **when**  
3 the loan is repaid or the property is transferred by deed or otherwise, [such] **the** loan may be ex-  
4 cluded from consideration in computing the maximum loan allowable. However, the loan right pro-  
5 vided in this section may be restored not more than once while an unrepaid balance remains on a  
6 previous loan granted to the applicant.

7 “(2) The director may allow an eligible individual to receive or, under ORS 407.305, assume more  
8 than two loans under this chapter when:

9 “(a) The loan received or assumed is an additional loan made for the improvement of the farm  
10 or home [*acquired with an initial loan for the acquisition of that property*]; or

11 “(b) The last official certification of record by the United States Department of Veterans Affairs  
12 or any branch of the Armed Forces of the United States shows the eligible individual to be at least  
13 50 percent disabled. However, a loan may be made to an eligible disabled veteran under this para-  
14 graph only if the veteran must acquire a different principal residence for compelling medical reasons  
15 or because the veteran is transferred by an employer for employment purposes or because the vet-  
16 eran’s spouse is transferred by an employer for employment purposes and the spouse provides more  
17 than 50 percent of the household income.

18 “(3) For the purposes of this section, an applicant owns a home when the applicant has fee  
19 simple title to the home or is the purchaser of the home under a contract of sale or other instrument  
20 of sale. Earnest money or preliminary sales agreements, options or rights of first refusal are not  
21 contracts or instruments of sale under this subsection.

22 “(4) As used in this section, ‘home’ includes mobile homes and houseboats.

23 “**SECTION 8.** ORS 407.225 is amended to read:

24 “407.225. (1) When the Director of Veterans’ Affairs receives an application pursuant to ORS  
25 407.205, the director shall immediately investigate and process it as provided by law. The security  
26 for the loan shall consist of the property to be acquired, **refinanced or improved** by the veteran  
27 as a home or a farm. The security shall be secured by a mortgage or security agreement in the full  
28 amount of the loan which mortgage or security agreement shall be either a first lien or a lien in-  
29 sured by mortgagee’s title insurance against loss from any prior encumbrance. The director may  
30 make subsequent loans for improvements to the security if there are no intervening liens between  
31 the first lien of the director created under this section and the recorded liens upon the security  
32 securing repayment of such subsequent improvement loans. Such consecutive liens, for the purposes  
33 of this chapter, shall be deemed collectively as a first lien upon the security. The mortgage or se-  
34 curity agreement shall provide that the borrower, or any subsequent owner of the secured property,  
35 may pay all or any part of the loan at any time without penalty.

36 “(2) A mobile home shall be secured by a security agreement in the full amount of the loan and  
37 the director shall perfect a security interest in favor of the State of Oregon. The security agreement  
38 shall provide that the borrower or any subsequent owner of the mobile home, may pay all or any  
39 part of the loan at any time without penalty. The security agreement shall provide for immediate  
40 acceleration of the unpaid balance of the loan if the mobile home is moved from the original site  
41 listed in the security agreement without first obtaining the written consent of the director. The se-  
42 curity agreement shall also provide that removal of the mobile home to a site outside of this state  
43 shall constitute an act of default and result in immediate acceleration of the unpaid balance of the  
44 loan.

45 “(3) Loans [*shall*] **may** not exceed:

1 “(a) 97 percent of the net appraised value on homes [*which*] **that** are real property;

2 “(b) 85 percent of the net appraised value on homes [*which*] **that** are not real property; and

3 “(c) 90 percent of the net appraised value on farms [*which*] **that** are real property.

4 “**SECTION 9.** ORS 407.265 is amended to read:

5 “407.265. (1) An applicant for a loan solely for the improvement of a home or farm may receive  
6 the loan if:

7 “(a) The applicant has not previously received a loan under this chapter;

8 “(b) The applicant has received a loan under this chapter for the acquisition, **refinance or**  
9 **improvement** of that home or farm for which there is an unpaid balance and repayment has been  
10 satisfactory; or

11 “(c) The applicant has previously received a loan under this chapter and there is no unpaid  
12 balance remaining on that loan.

13 “(2) Any loan made to an applicant who qualifies under subsection (1)(b) of this section for a  
14 loan solely for the improvement of a home or farm may be added to the amount due from the ap-  
15 plicant and shall bear interest at the rate prescribed in ORS 407.325.

16 “**SECTION 10.** ORS 407.325 is amended to read:

17 “407.325. (1) The Director of Veterans’ Affairs, with the advice of the Advisory Committee, will  
18 periodically, during the term of the loan, prescribe the interest rates to be paid by the applicant,  
19 taking into consideration the current value of the money, the solvency of the loan program, and the  
20 rates’ effect on veterans. If the director, after considering the factors specified in this section, de-  
21 termines that there is an economic need for a higher rate of interest on loans made for the acqui-  
22 sition of mobile homes and houseboats, the director shall prescribe the rate of interest for the  
23 acquisition of a mobile home or houseboat at not higher than two percent more per annum than the  
24 basic rate established by this section.

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

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

29 “(b) The rate of interest on loans granted on or after January 1, 1981, and originally set at seven  
30 and two-tenths percent per annum shall not be increased to more than nine and two-tenths percent  
31 per annum.

32 “(c) The rate of interest on a loan granted on or after May 27, 1971, for the acquisition of a  
33 mobile home or houseboat originally set at seven and nine-tenths percent per annum shall not be  
34 increased to more than nine and nine-tenths percent per annum.

35 “(3) The director may prescribe the interest rates to be paid by the applicant at a rate greater  
36 than the rates described in subsection (2) of this section, but only if the director determines, at the  
37 sole discretion of the director, that such action reduces the probability that invoking the provisions  
38 of section 4, Article XI-A of the Oregon Constitution, will become necessary.

39 “(4) When, during two consecutive fiscal years, the cash flow projection and the review of the  
40 projection performed under ORS 407.185 indicate that the Oregon War Veterans’ Bond Sinking Ac-  
41 count will maintain a balance throughout the term of the projections that exceeds the succeeding  
42 years’ debt service and operating expenses for the loan program, the director shall prepare a pro-  
43 gram for reducing the interest rates charged under this section in such a manner as to [*insure*]  
44 **ensure** the future solvency and self-supporting nature of the loan program. However, no reduction  
45 in interest rates shall occur if the variable rate debt, if converted to a fixed rate, requires retention

1 of the amounts in order to meet projections.

2 “(5) Notwithstanding the [*rate prescribed for acquisition of a home as provided*] **interest rates**  
3 **provided for** in subsections (1) to (4) of this section, the director may periodically establish separate  
4 and distinct interest rates for home improvement loans.

5 “**SECTION 11.** ORS 407.327 is amended to read:

6 “407.327. (1) The Director of Veterans’ Affairs may prescribe fixed or variable rates on the fol-  
7 lowing:

8 “(a) Loans or purchase contracts made after September 27, 1987, for acquisition, **refinance or**  
9 **improvement** of homes or farms.

10 “(b) Obligations on loans or purchase contracts made on or before September 27, 1987, where  
11 ownership of the property subject to the loan or purchase contract is transferred after September  
12 27, 1987.

13 “(2) The director may modify loan agreements or purchase contracts made before September 27,  
14 1987, by changing fixed interest rates to variable or variable interest rates to fixed, if all the parties  
15 to [*such*] **the** loan agreements or contracts agree in writing to [*such*] **the** modification.

16 “**SECTION 12.** ORS 407.385 is amended to read:

17 “407.385. (1) Money received as a loan under this chapter [*shall*] **may** be used only for the ac-  
18 quisition, **refinance or improvement** of a home or farm.

19 “(2) Except as provided in this section, use of all or any part of a loan received under this  
20 chapter for investment or any purpose other than the acquisition, **refinance or improvement** of a  
21 home or farm constitutes an act of default and results in immediate acceleration of the unpaid bal-  
22 ance of the loan.

23 “(3) When the Director of Veterans’ Affairs determines that a borrower is using loan moneys in  
24 violation of this section, the director shall immediately commence any action or proceeding neces-  
25 sary to recover for the state those moneys or any property obtained therewith.

26 “(4) A failure by a borrower to move into the home or farm securing the borrower’s loan and  
27 to use it as the borrower’s principal residence within 60 days after the loan or assumption is made,  
28 or within such extension as may be granted in writing by the director, shall be conclusively pre-  
29 sumed to constitute a violation of this section. A request for an extension for good cause shall be  
30 made in writing within the 60-day period. The applicant may file a written request for a hearing  
31 within 30 days after a denial of the request for extension.

32 “(5) The director [*shall*] **may** not approve any rental or lease of a home or farm that affects the  
33 federally tax exempt status of bonds issued under Article XI-A of the Oregon Constitution. When the  
34 rental or lease does not affect the federally tax exempt status of such federally tax exempt bonds,  
35 the director may approve in writing the rental or lease of a home or farm after the home or farm  
36 is used as the principal residence of the borrower. The director may establish factors to consider  
37 when determining whether to approve the rental of a home or farm.

38 “**SECTION 13.** ORS 407.465 is amended to read:

39 “407.465. (1) Subject to the limitations provided for in this chapter the Director of Veterans’  
40 Affairs may provide loan cancellation life insurance for any person who receives or assumes a loan  
41 or makes a contract under this chapter for the acquisition, **refinance or improvement** of a home  
42 or farm, and the spouse or former spouse of that person.

43 “(2) Such insurance may insure the life of the person who receives or assumes the loan or who  
44 is the contract purchaser and the life of the spouse or former spouse of that person for all or a  
45 portion of the amount of principal and interest due on the state loan or contract. However, for each

1 loan or contract, the lives of not more than two persons shall be insured. The State of Oregon shall  
2 be named the beneficiary of the insurance. When an individual insured under this chapter dies, the  
3 proceeds of the insurance shall be used to pay all or the insured portion of the balance of the state  
4 loan or contract, and the director shall issue a revised payment plan or a satisfaction of the loan  
5 or contract.

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

9 “**SECTION 14.** ORS 407.495 is amended to read:

10 “407.495. (1) The money arising from the sale of each issue of bonds authorized under section  
11 2, Article XI-A, of the Oregon Constitution, shall be deposited in the State Treasury and be credited  
12 to a special fund separate and distinct from the General Fund, to be known as the Oregon War  
13 Veterans’ Fund; which fund hereby is appropriated for the purpose of carrying out the provisions  
14 of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415 and 407.515 to 407.565 and  
15 to purchase bonds issued for the purposes of such provisions. With the approval of the Director of  
16 Veterans’ Affairs, the moneys in the fund not immediately required for loaning may be invested as  
17 provided in ORS 293.701 to 293.820. The earnings from such investments shall inure to the Oregon  
18 War Veterans’ Fund.

19 “(2) In addition to the money arising from the sale of such bonds, the Oregon War Veterans’  
20 Fund shall also consist of:

21 “(a) All moneys received as payments on principal and interest of loans made under ORS  
22 407.125;

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

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

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

27 “(e) All moneys received as interest earned on the investment of moneys in the Oregon War  
28 Veterans’ Fund;

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

30 “(g) All other moneys accruing under this section and ORS 407.115, 407.125, 407.165, 407.205,  
31 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565.

32 “(3) All moneys in the Oregon War Veterans’ Fund are continuously appropriated to the Direc-  
33 tor of Veterans’ Affairs for the following purposes:

34 “(a) To carry out the provisions of this section and ORS 407.115, 407.125, 407.165, 407.205,  
35 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565;

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

37 “(c) Except for moneys derived from the sale of bonds or from tax levies, for payment of ex-  
38 penses of the administration of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275,  
39 407.415, 407.425, 407.435, 407.555 and 407.565.

40 “(4) With the approval of the director, the moneys in the Oregon War Veterans’ Fund not im-  
41 mediately required to provide loans for the acquisition, **refinance or improvement** of farms [and]  
42 **or** homes may be invested as provided in ORS 293.701 to 293.820. The earnings from such invest-  
43 ments shall be credited to the Oregon War Veterans’ Fund.

44 “**SECTION 15. The amendments to ORS 407.075, 407.085, 407.125, 407.177, 407.201, 407.205,**  
45 **407.225, 407.265, 407.325, 407.327, 407.385, 407.465, 407.475 and 407.495 by sections 1 to 14 of this**

1 2005 Act apply to applications for loans made to the Director of Veterans' Affairs under ORS  
2 407.205 on or after the effective date of this 2005 Act.

3       “SECTION 16. This 2005 Act does not take effect unless the amendment to the Oregon  
4 Constitution proposed by House Joint Resolution 47 (2005) is approved by the people at a  
5 special election held throughout this state on the same date as the next primary election.  
6 This 2005 Act takes effect on the effective date of that constitutional amendment.”.

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