

CHAPTER 61

AN ACT

SB 1582

Relating to the Housing and Community Services Department; creating new provisions; amending ORS 270.100 and 456.559; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 3 of this 2016 Act:

(1) “Affordable housing” means residential housing that may be purchased or rented, with or without government assistance, by persons who meet the applicable income limits of local, state or federally funded programs or developments.

(2) “Area median income” means the median income for the county in which the subject housing is located, adjusted for family size, as determined by the Housing and Community Services Department using United States Department of Housing and Urban Development information.

(3) “Development costs” has the meaning given that term in ORS 456.548.

(4) “Low income households” means households of one or more individuals whose combined incomes are at or below 60 percent of the area median income.

(5) “Operate” means to have sufficient direct or indirect control of qualified property that reasonably enables the Housing and Community Services Department, in its determination, to ensure the qualified property’s use for the purpose of providing affordable housing under the Local Innovation and Fast Track Housing Program established in section 2 of this 2016 Act.

(6) “Own” means to possess one or more interests as described in section 2 (3) of this 2016 Act in a qualified property that reasonably enables the Housing and Community Services Department, in its determination, to ensure the qualified property’s use for the purpose of providing affordable housing under the Local Innovation and Fast Track Housing Program established in section 2 of this 2016 Act.

(7) “Qualified property” means real or personal property, including infrastructure and indebtedness related to the real or personal property.

SECTION 2. (1) The Housing and Community Services Department shall, with the advice and consent of the Oregon Housing Stability Council, develop and implement the Local Innovation and Fast Track Housing Program for the purpose of expanding the state’s supply of affordable housing for low income households.

(2) The department may use funds available pursuant to Article XI-Q of the Oregon Consti-

tution and deposited in the Local Innovation and Fast Track Housing Program Fund established under section 3 of this 2016 Act to:

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

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

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

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

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

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

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

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

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

(a) Adopt criteria that:

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

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

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

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

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

(c) Operate qualified property.

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

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

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

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

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

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

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

SECTION 3. (1) The Local Innovation and Fast Track Housing Program Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on moneys in the Local Innovation and Fast Track Housing Program Fund shall be credited to the fund.

(2) The fund consists of moneys deposited into the fund pursuant to section 1 (6), chapter 685, Oregon Laws 2015.

(3) Moneys in the fund are continuously appropriated to the Housing and Community Services Department for:

(a) The purposes described in section 2 of this 2016 Act;

(b) Payment of the costs incurred by the department to administer the fund; and

(c) Payment of bond-related costs, as defined in ORS 286A.816.

SECTION 4. ORS 270.100 is amended to read:

270.100. (1)(a) Before offering for sale any real property or equitable interest in real property that the state owns, the state agency acting for the state in the sales transaction shall report to the Oregon Department of Administrative Services that the state agency intends to sell or transfer the real property or the equitable interest. The department, or an agency the department specifically designates, shall notify other state agencies authorized to own real property of the intended sale or transfer to determine whether acquiring the real property or interest in the real property would be advantageous to another state agency.

(b)(A) The department shall give the first opportunity after other state agencies to acquire, pur-

chase, exchange or lease real property or an interest in real property that the State of Oregon disposes of or sells to:

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

(I) Nonprofit organizations; and

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

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

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

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

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

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

(3) Before any terminal disposition of real property or an interest in real property, the state agency

acting for the state in the transaction must secure approval of the transaction from the Oregon Department of Administrative Services.

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

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

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

(c) Property that the Department of Transportation controls;

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

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

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

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

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

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

(6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to 273.436, 273.551 and 308A.709 (1) to (4) do not apply to:

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

(b) Real property that the Housing and Community Services Department acquires or sells under the provisions of ORS 456.515 to 456.725 or ORS chapter 458 or sections 1 to 3 of this 2016 Act.

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

SECTION 5. On or before February 1 of each of the years 2017, 2018 and 2019, the Housing and Community Services Department shall prepare and submit a report to the interim committees of the Legislative Assembly that have authority over the subject area of housing regarding the Local Innovation and Fast Track Housing Program and the annual progress on implementation of the program. Each report shall include but is not limited to information regarding:

(1) The amount of funds expended;

(2) The number of affordable housing units in progress and developed; and

(3) The location of the affordable housing units and geographic diversity.

SECTION 6. ORS 456.559 is amended to read:

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

(a) Maintain current housing data and information concerning available programs, status of fund-

ing, programs planned or undertaken which might conflict with, overlap, duplicate or supersede other planned or existing programs and call these to the attention of appropriate state agencies, governmental bodies and public or private housing sponsors.

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

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

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

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

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

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

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

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

(2) Except as otherwise provided in ORS 456.625 (7) and sections 1 to 3 of this 2016 Act, the department may not itself develop, construct, rehabilitate or conserve housing units; and neither the

department nor any housing sponsor, including but not limited to any association, corporation, cooperative housing authority or urban renewal agency organized to provide housing and other facilities pursuant to ORS 456.548 to 456.725, may own, acquire, construct, purchase, lease, operate or maintain utility facilities, including facilities for the generation of electricity, for the distribution of gas and electricity, and for the conveyance of telephone and telegraph messages.

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

recommendations within 15 working days after receipt of the notification. Failure of the department to complete the review within that time shall constitute approval of the application by the department.

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

SECTION 7. In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2015, out of the General Fund, the amount of \$169,350, for payment of expenses related to the development of affordable housing for low income households funded with proceeds from bonds issued under authority of Article XI-Q of the Oregon Constitution through the Local Innovation and Fast Track Housing Program created under section 2 of this 2016 Act.

SECTION 8. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.

Approved by the Governor March 15, 2016
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