

Enrolled
House Bill 2101

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Housing and Community Services Department)

CHAPTER

AN ACT

Relating to rental assistance programs; creating new provisions; and amending ORS 456.375, 456.378, 456.390, 456.395, 456.500, 456.502 and 456.608.

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

LANDLORD GUARANTEE PROGRAM

SECTION 1. ORS 456.375 is amended to read:

456.375. As used in ORS 456.375 to 456.390:

(1) "Housing Choice Voucher Program" means the federal tenant-based assistance program established under 42 U.S.C. 1437f(o).

(2) "Landlord" means an owner of a dwelling unit that has entered into an agreement with a [local] housing authority to receive tenant-based assistance payments under the Housing Choice Voucher Program and that has entered into a rental or lease agreement with a tenant [determined to be eligible to receive assistance under the Housing Choice Voucher Program].

[(3)] "Local housing authority" means a housing authority that has entered into a contract with the Secretary of Housing and Urban Development of the United States pursuant to which the housing authority is authorized to make tenant-based assistance payments to landlords within a designated county or area of operation under the Housing Choice Voucher Program.]

[(4)] (3) "Tenant" means an individual or a family who is [determined to be] eligible to receive tenant-based assistance payments under the Housing Choice Voucher Program and who has entered into a rental or lease agreement with a landlord.

SECTION 2. ORS 456.378 is amended to read:

456.378. (1) The Housing and Community Services Department shall develop and implement the Housing Choice Landlord Guarantee Program for the purpose of providing financial assistance to landlords to mitigate damages caused by tenants as a result of occupancy under the Housing Choice Voucher Program.

(2) Landlords that are eligible for assistance under the Housing Choice Landlord Guarantee Program must [obtain a judgment against the tenant, following a hearing in which the landlord proves the amount of damages, in either the small claims department of a circuit court or a circuit court for the county in which the property is located] **submit an application in the form and format prescribed by the department.** Assistance is limited to reimbursement for only those amounts [in the judgment] that are related to property damage, unpaid rent or other damages:

(a) Caused as a result of the tenant's occupancy under the Housing Choice Voucher Program;

(b) That exceed normal wear and tear; and
(c) That are in excess of \$500 but not more than \$5,000 per tenancy.
(3) A landlord must submit [a claim] **an application** for assistance to the department within one year [of obtaining a judgment against a tenant pursuant to subsection (2) of this section] **following the later of the date that:**

- (a) **The tenancy terminates;**
- (b) **The landlord obtains possession of the dwelling unit; or**
- (c) **Payments from the Housing Choice Voucher Program to the landlord terminate.**

(4) The department may contract with a public or private provider for the administration of the Housing Choice Landlord Guarantee Program. The department is not subject to the provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of this subsection. The department shall establish by rule procedures for inviting proposals and awarding contracts under this subsection.

(5) The department shall adopt rules to implement the provisions of this section, including but not limited to prescribing additional qualifications and requirements that must be met by landlords and the form of application that must be submitted to the department to receive assistance under the program.

SECTION 3. ORS 456.390 is amended to read:

456.390. (1) [Local] Housing authorities shall report annually to the Housing and Community Services Department regarding information required to be provided to the Secretary of Housing and Urban Development regarding each [local] housing authority's participation in the Housing Choice Voucher Program.

(2) [Local] Housing authorities shall annually review internal procedures and processes so as to coordinate the length of the rental and lease terms with market standards for the purpose of achieving the maximum use and benefit in the best interests of tenants and landlords from tenant-based assistance payments under the Housing Choice Voucher Program.

(3) Consistent with federal law, [local] housing authorities shall facilitate participation of landlords in the Housing Choice Voucher Program by:

- (a) Ensuring timely inspection of dwelling units and prompt processing of tenant applications and tenant-based assistance payments to landlords;
- (b) Establishing leases with terms that match the lease length that is standard and customary for the dwelling units involved;
- (c) Assisting tenants and landlords with service referrals; and
- (d) Establishing a process that allows landlords to provide regular input to [local] housing authorities.

(4)(a) There is created the Statewide Housing Choice Advisory Committee to be appointed by the Director of the Housing and Community Services Department. The director shall have discretion to determine the number of committee members and the duration of membership. The committee membership must be geographically representative of all regions of this state and shall include an equal number of representatives for each of the following:

- (A) [Local] Housing authorities or their representatives;
- (B) Landlords of single and multiple dwelling units or their advocates; and
- (C) Tenants or their advocates.

(b) The committee shall:

(A) Advise the department with respect to matters of interest and concern regarding the Housing Choice Voucher Program;

(B) Discuss and share best practices for maximizing participation by landlords and tenants in the Housing Choice Voucher Program; and

(C) Develop strategies and outcome measures for gauging the effectiveness of the Housing Choice Voucher Program.

(c) The committee shall prepare and submit a report to the committees of the Legislative Assembly that have authority over the subject area of housing on the date of the convening of each

regular session of the Legislative Assembly regarding participation in and the effectiveness of the Housing Choice Voucher Program in this state.

RENT GUARANTEE PROGRAM

SECTION 4. ORS 456.608 is amended to read:

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

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

(a) Resides in a low income household;

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

(A) Poor credit history or ratings;

(B) A criminal history;

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

(D) A history of housing evictions; and

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

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

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

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

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

[(c) Reimbursement for unpaid rent is limited to a maximum of \$2,000 per eligible tenant;]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONFORMING PROVISIONS

SECTION 5. ORS 456.395 is amended to read:

456.395. The Housing and Community Services Department and the Oregon Housing Stability Council shall cooperate with and assist [local] housing authorities [as defined in ORS 456.375] to obtain federal approval, renewal of an existing waiver of federal requirements or a new waiver of federal requirements, as necessary to make the use and distribution of federal rent subsidy and assistance payments under 42 U.S.C. 1437f as efficient and beneficial as possible to increase the supply of decent, safe, sanitary and affordable housing for persons of low income and very low income in this state.

SECTION 6. ORS 456.500 is amended to read:

456.500. (1) The Legislative Assembly finds that:

(a) There is a significant number of rental properties in this state whose owners have obtained rural rental housing loans from Rural Development or the Farm Service Agency of the United States Department of Agriculture under 7 C.F.R. 3560. Many of these rental properties contain rental units in which very low, low and moderate income families, elderly persons and persons with disabilities live and receive federal rental assistance.

(b) Beginning in 2015, many of the mortgage loans made to the owners of these rental properties will mature and federal rental assistance to tenants residing on the premises of these rental properties will no longer be available.

(c) Currently, there is no legal mechanism in place requiring the owners of these rental properties to provide notice of loan maturity to tenants, the Housing and Community Services Department, housing authorities as defined in ORS 456.005 and local governments.

(d) Requiring notice at least one year before maturity of a loan described in paragraph (a) of this subsection would provide:

(A) Tenants with time to locate alternative housing and rental assistance; and

(B) The Housing and Community Services Department, housing authorities and local governments with time to work with Rural Development or the Farm Service Agency of the United States Department of Agriculture to develop arrangements that will protect the housing status of existing tenants.

(2) The owner of any rental property that has received a rural rental housing loan from Rural Development or the Farm Service Agency of the United States Department of Agriculture under 7 C.F.R. 3560 shall provide written notice by first class mail with postage prepaid and by posting in a common area on the rental property notice of all of the following:

(a) The date upon which the loan matures;

(b) That federal rental assistance will no longer be available after the date of loan maturity with respect to the rental property that includes the premises on which the tenants reside; and

(c) That there may be other program use restrictions and rent controls that expire after the date of loan maturity.

(3) The notice required by subsection (2) of this section must be mailed to:

(a) Any tenant residing on the premises of the rental property that is the subject of the loan, mailed to the street address of the premises on which the tenant resides, on or after the date that is one year before the date of loan maturity;

(b) The Director of the Housing and Community Services Department;

(c) The [local] housing authority [as defined in ORS 456.375] that is located in the county or area of operation in which the rental property is located; and

(d) The mayor, planning department or person or entity with a similar function in the local government in the area in which the rental property is located.

(4)(a) Failure to provide the notice required by this section entitles a tenant residing on the premises of the rental property on the date that is at least one year in advance of the date of loan maturity to continue residing on the premises of the rental property without any increase in the tenant's portion of the rent charged for up to one year after the date of loan maturity, or one year after termination of the tenant's federal rental assistance, program use restrictions or rent controls, whichever date is later.

(b) Providing notice less than one year before the date of loan maturity entitles a tenant residing on the premises of the rental property on the date that is at least one year before the date of loan maturity to continue residing on the premises of the rental property without any increase in the tenant's portion of the rent charged for a period of time that equals the number of days that the notice was late.

(c) If the tenant begins residency at a time that is less than one year before the date of loan maturity, the tenant must receive the notice required by this section prior to entering into a rental agreement. Failure to provide the notice required by this paragraph entitles the tenant to continue

residing on the premises of the rental property without any increase in the tenant's portion of the rent charged for up to one year after the date of loan maturity, or one year after termination of the tenant's federal rental assistance, program use restrictions or rent controls, whichever date is later.

(5) The provisions of subsection (4) of this section are not intended to contravene the owner's right to terminate a tenant's residency or evict a tenant for good cause.

(6) As used in this section, "local government" means cities and counties.

SECTION 7. ORS 456.502 is amended to read:

456.502. (1) The Affordable Housing Land Acquisition Revolving Loan Program is established within the Housing and Community Services Department. The purpose of the program is to provide financial assistance to eligible organizations to purchase land for affordable housing development. The department may contract with a qualifying nonprofit organization to serve in a fiduciary capacity as program administrator.

(2) The department or the program administrator, with the department's approval, may make loans to eligible organizations to purchase land on which to develop affordable housing and to build facilities intended to provide supportive services to affordable housing residents and low income households in the nearby community.

(3) Organizations that are eligible to participate in the program include local governments, [local] housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in this state and regional or statewide nonprofit housing assistance organizations.

(4) Each eligible organization must include in the organization's loan application a proposed affordable housing development plan that indicates the number of affordable housing units planned, a description of any other facilities that are being considered for the property and an estimated timeline for completion of the development. The department or the department's program administrator may require additional information from eligible organizations and may consider the efficient use of land, project readiness, organizational capacity and other factors as criteria in making loans.

(5) Forty percent of loans made by the program shall go to eligible organizations operating home ownership programs for low income households. If the entire 40 percent cannot be loaned to the types of eligible organizations described in this subsection, the remainder may be loaned to other eligible organizations under subsection (6) of this section.

(6) Sixty percent of loans shall be made to eligible organizations not described in subsection (5) of this section.

(7) Within five years of receiving a loan, a loan recipient must present the department or the program administrator with an updated development plan, including a proposed development design, committed and anticipated additional financial resources to be dedicated to the development and an estimated development schedule that indicates completion of the development within eight years of receipt of the loan. The updated development plan must be substantially consistent with the development plan submitted as part of the original loan application required in subsection (4) of this section.

(8) Within eight years of receiving a loan under this section, a loan recipient must complete development of affordable housing on the property for which the loan was made and place the affordable housing into service.

(9) A loan recipient must preserve the affordable housing developed on the property acquired under this section as affordable housing for a minimum of 30 years.

(10)(a) If a loan recipient does not place affordable housing into service on a property for which a loan was received under this section within the eight-year period specified in subsection (8) of this section, or if a loan recipient fails to use the property for the intended affordable housing purpose consistent with the loan recipient's original affordable housing development plan, the loan recipient must pay to the department an amount consisting of the principal of the original loan plus compounded interest calculated at the current market rate. The department shall develop guidelines for the time period in which this repayment must take place and include the time period in the original loan agreement entered into with the loan recipient. The department may grant a partial or total

exemption from this repayment requirement if the department determines that a development is substantially complete or that the property has been substantially used as described in the original affordable housing development plan.

(b) As used in this subsection, “current market rate” means the current average market interest rate that is determined at the time any individual loan is closed upon using a widely recognized current market interest rate measurement to be selected for use by the department or by the program administrator, with the approval of the department. This interest rate must be noted in an attachment to the closing documents for each loan.

(11) The department, or the program administrator with the approval of the department, may adopt guidelines and requirements that are necessary to administer the program.

(12) Interest rates on loans granted under this section may not exceed one percent.

(13) The department, or the program administrator with the approval of the department, must develop performance measures for the program, including at a minimum measures related to:

(a) The ability of eligible organizations to access land for affordable housing development;

(b) The total number of dwelling units by housing type and the total number of low income households and persons served; and

(c) The financial efficiency of the program as demonstrated by certain factors, including the cost per unit developed for affordable housing units in different areas of this state and a measure of the effective use of funds to produce the greatest number of units for low income households.

(14) By December 1 of each year, beginning in 2018, the department and the program administrator, if any, shall report to the interim committees of the Legislative Assembly with subject matter jurisdiction for housing regarding the performance measures developed under subsection (13) of this section.

(15) For purposes of this section, “low income household” has the meaning given that term in ORS 456.270.

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

UNIT CAPTIONS

SECTION 8. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

Passed by House April 8, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate May 12, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State