

HB 2095-1
(LC 677)
3/4/21 (RLM/ps)

Requested by HOUSE COMMITTEE ON HOUSING (at the request of Nicole Stingh, Housing and Community Services Department)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2095**

1 On page 1 of the printed bill, line 3, delete “and 456.263” and insert “,
2 456.263, 456.264 and 456.265”.

3 On page 3, delete lines 34 through 45 and delete page 4.

4 On page 5, delete lines 1 through 4 and insert:

5 **“SECTION 4.** ORS 456.262 is amended to read:

6 “456.262. *[(1) A property owner shall provide notice in a format prescribed*
7 *by the Housing and Community Services Department, including by electronic*
8 *delivery or registered or certified mail, to each local government entitled to*
9 *notice under ORS 456.260 and to the department, no sooner than 30 months*
10 *prior and at least 24 months prior to any withdrawal of the participating*
11 *property from publicly supported housing, including by an expiration of a*
12 *contract.]*

13 “[~~(2)~~] **(1) [The] After the owner of a participating property has de-**
14 **livered the notice under ORS 456.260 (1) or 30 months prior to the date**
15 **when the contract term would expire as described in ORS 456.260 (1)(a),**
16 **whichever is earlier, the Housing and Community Services Department**
17 **may appoint a designee to act as purchaser of the participating property. The**
18 **appointment becomes effective upon the department delivering to the prop-**
19 **erty owner notice of the appointment of a designee. The department must**
20 **consult with each local government where the property is located before**
21 **appointing a designee under this subsection. The department shall enter into**

1 a written agreement with the appointed designee requiring that the designee
2 and any of the designee's successors or assigns:

3 “(a) Agree to preserve the affordability of the participating property; and

4 “(b) Assume all rights and responsibilities attributable to the department
5 as a prospective purchaser of the participating property.

6 “[3] (2) *[After the property owner has delivered the notice]* **On or after**
7 **the date that the department may appoint a designee** under subsection
8 (1) of this section, a qualified purchaser may deliver by certified mail, with
9 return receipt requested, an offer to the property owner to purchase the
10 participating property, which includes a notice that the qualified purchaser
11 may, after 30 days, record a notice of right of first refusal under subsection
12 [(4)] (3) of this section. A property owner is under no obligation to accept
13 an offer made under this subsection.

14 “[4] (3) At any time after a qualified purchaser has made an offer to
15 purchase the participating property under subsection [(3)] (2) of this section
16 and no later than two months before the owner may withdraw the property
17 under subsection [(5)] (4) of this section, a qualified purchaser may record
18 in the real property records of the county, a notice of right of first refusal
19 in a form prepared by the department that:

20 “(a) Includes a legal description of the participating property;

21 “(b) Attaches a copy of the notice delivered with the offer and proof of
22 mailing of the notice as required by subsection [(3)] (2) of this section;

23 “(c) Declares that the department or local government party acknowledg-
24 ing the instrument holds the right of first refusal to purchase the property
25 under ORS 456.263 and that the acknowledging party may assign the right
26 of first refusal to a qualified purchaser and that right may be, from time to
27 time, reassigned;

28 “(d) Declares that the right of first refusal shall expire 24 months after
29 the date the property may be withdrawn from publicly supported housing
30 under subsection [(5)] (4) of this section;

1 “(e) Declares that a copy of the recorded notice of right of first refusal
2 must be promptly delivered to the property owner by the qualified purchaser
3 offering the instrument for recording; and

4 “(f) Is executed and acknowledged by the local government or department
5 in the manner provided for the acknowledgment of deeds.

6 “[5] (4) The property owner may **not** withdraw the participating prop-
7 erty from publicly supported housing and terminate the affordability re-
8 strictions [upon] **until** the latest of **the date**:

9 “(a) [24] **Twenty-four** months following the owner’s delivery of all no-
10 tices required under [subsection (1) of this section] **ORS 456.260 (2)**;

11 “(b) [30] **Thirty** months following the owner’s delivery of all notices re-
12 quired under ORS 456.260 (1); or

13 “(c) [Expiration of] **Upon which** all affordability [restrictions period] **re-**
14 **striction periods** set forth in any contract **expire**.

15 “[6] (5) At any time after the notice described in [subsection (1) of this
16 section has been provided] **ORS 456.260 (1) has been delivered**, within 30
17 days of the request from a qualified purchaser, the property owner shall
18 make available documents that are relevant to the participating property at
19 the property owner’s principal place of business or at a commercial photo-
20 copying facility.

21 “[7(a)] (6)(a) Notwithstanding the provisions of ORS 192.311 to 192.478
22 relating to public records, the documents provided by the property owner to
23 a qualified purchaser under subsection [(6)] (5) of this section are confiden-
24 tial and exempt from public inspection except with the written consent of the
25 property owner or as ordered by a court.

26 “(b) Notwithstanding paragraph (a) of this subsection, disclosure may be
27 made to potential funding sources, regulatory agencies or agents or consult-
28 ants of a qualified purchaser in connection with a transaction between the
29 property owner and a qualified purchaser under this section, subject to ap-
30 propriate confidentiality agreements.”.

1 On page 6, delete lines 4 through 7 and insert:

2 **“SECTION 6. Section 7 of this 2021 Act is added to and made a part**
3 **of ORS 456.255 to 456.265.**

4 **“SECTION 7. (1) In addition to notices given under ORS 456.260 and**
5 **456.262, the owner of publicly supported housing as described in ORS**
6 **456.250 (6)(a)(B) in which the Housing and Community Services De-**
7 **partment is a party to the contract must provide notice to the tenants**
8 **under this section before the owner withdraws the participating prop-**
9 **erty from publicly supported housing.**

10 **“(2) The notice required under this section must be in plain lan-**
11 **guage and must include:**

12 **“(a) The expiration date of the department’s affordability re-**
13 **strictions;**

14 **“(b) That the owner intends to withdraw the property from publicly**
15 **supported housing upon the date indicated under paragraph (a) of this**
16 **subsection;**

17 **“(c) An explanation and any expiration date of any safe harbor**
18 **provisions which may allow the tenant to retain the tenancy after the**
19 **affordability restriction is terminated;**

20 **“(d) Information about tenant resources, as may be required by the**
21 **department by rule; and**

22 **“(e) Other information required by the department by rule.**

23 **“(3) The notice required under this section must be delivered no**
24 **more than 14 months and no fewer than 12 months before the date**
25 **described in ORS 456.260 (1)(a) by:**

26 **“(a) First class mail to:**

27 **“(A) Any tenant residing at the participating property at the**
28 **tenant’s mailing address; and**

29 **“(B) The Director of the Housing and Community Services Depart-**
30 **ment; and**

1 **“(b) Posting the notice in a common area of the property.”**

2 **“SECTION 8.** ORS 456.264 is amended to read:

3 “456.264. (1) Any person who suffers any ascertainable loss of money or
4 property, real or personal, as a result of the failure of an owner of a par-
5 ticipating property to provide notices or otherwise comply with the pro-
6 visions of ORS 456.260, 456.262 or 456.263 **or section 7 of this 2021 Act** may
7 bring an individual action in an appropriate court to recover actual damages.
8 The court or the jury may award punitive damages, and the court may pro-
9 vide injunctive relief and any other equitable relief the court considers nec-
10 essary and proper.

11 “(2) The court may award reasonable attorney fees and costs at trial and
12 on appeal to a prevailing plaintiff in an action under this section.

13 **“SECTION 9.** ORS 456.265 is amended to read:

14 “456.265. (1) Except as expressly authorized in ORS 456.260, [*or 456.262*
15 *and 456.263*] **456.262 or 456.263 or section 7 of this 2021 Act** or as may be
16 provided by contract with the property owner, a local government may not:

17 “(a) Impose any fine, penalty, tax, fee, charge, assessment or other re-
18 striction or sanction against a property owner for withdrawing the partic-
19 ipating property from publicly supported housing.

20 “(b) Except as an exercise of constitutional or statutory powers of con-
21 demnation:

22 “(A) Prevent or restrict a property owner from selling or otherwise dis-
23 posing of participating property.

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

26 “(C) Impose any fine, penalty, tax, fee, charge, assessment or other re-
27 striction or sanction against a property owner for refusing an offer by the
28 Housing and Community Services Department, the department’s designee, a
29 local government or another party to purchase participating property.

30 “(2) Subsection (1) of this section does not prohibit a local government

1 that is certified by a federal agency to carry out an agency responsibility
2 or to exercise agency authority from taking any action within the scope of
3 that responsibility or authority.

4 **“SECTION 10. Section 7 of this 2021 Act and the amendments to**
5 **ORS 456.250, 456.258, 456.260, 456.262, 456.263, 456.264 and 456.265 by**
6 **sections 1 to 5, 8 and 9 of this 2021 Act apply to participating properties**
7 **subject to an affordability restriction or contract that will, by its**
8 **terms, terminate on or after 30 months following the effective date of**
9 **this 2021 Act.”.**

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