Oregon Affordable Housing Lender

ORS 317.097	Year Enacted:	1989	Transferable:	No
	Length:	Loan, up to 30 yrs.	Means Tested:	No
	Refundable:	No	Carryforward:	5-years
TER 1.426	Kind of cap:	Program	Inflation Adjusted:	No

Policy Purpose

Statute does not specifically contain a purpose statement for this tax credit. Documentation from the implementing legislation in 1989 indicate that the policy was put forth, in part, as a response to a 70 percent reduction in federal funding for low-income housing development over the prior seven years despite the continued demand for such housing. The policy included the requirement that the housing would be available, affordable, and occupied by low-income households. Eligible households are those earning less than 80 percent of the area median income (AMI).

Legislative documentation from 2011 provided to the House Committee on General Government and Consumer Protection, states that the ***policy purpose of this tax credit is to support: (1) the development of housing affordable to households with incomes up to 80 percent of area median income; (2) the preservation of housing with federal rent subsidy contracts; and (3) the preservation of manufactured dwelling parks.***

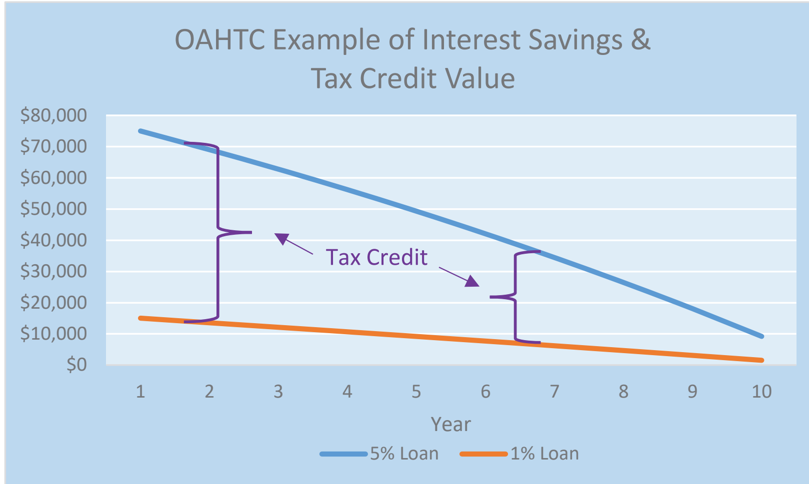
Description

Corporations that make qualified loans at below market interest rates for eligible housing projects are allowed a tax credit equal to the difference between the finance charge on the loan and the finance charge that would have been imposed if the loan were issued at market interest rates.[27] The eligible term of the loan for which tax credits can be claimed is determined by Oregon Housing and Community Services (OHCS) and is limited to no more than 20 years, or 30 years if the qualified loan has a contract for rent assistance or financing resources from the U.S. Dept. of Agriculture. The table and chart that follow provide a simplified example of the credit's mechanics. The example is for a ten-year loan period which is not typical but was chosen for brevity purposes.

An OAHTC Example | $1.5 Million Loan | 10-Year Term							
	Loan with a 5% Interest Rate			Loan with a 1% Interest Rate			
Year	Principal	Interest	Payment	Principal	Interest	Payment	Tax Credits
1	$119,257	$75,000	$194,257	$143,373	$15,000	$158,373	$60,000
2	$125,220	$69,037	$194,257	$144,807	$13,566	$158,373	$55,471
3	$131,481	$62,776	$194,257	$146,255	$12,118	$158,373	$50,658
4	$138,055	$56,202	$194,257	$147,717	$10,656	$158,373	$45,546
5	$144,957	$49,299	$194,257	$149,195	$9,178	$158,373	$40,121
6	$152,205	$42,052	$194,257	$150,687	$7,687	$158,373	$34,365
7	$159,816	$34,441	$194,257	$152,193	$6,180	$158,373	$28,262
8	$167,806	$26,450	$194,257	$153,715	$4,658	$158,373	$21,793
9	$176,197	$18,060	$194,257	$155,253	$3,121	$158,373	$14,940
10	$185,007	$9,250	$194,257	$156,805	$1,568	$158,373	$7,682
Total	**$1,500,000**	**$442,569**	**$1,942,569**	**$1,500,000**	**$83,731**	**$1,583,731**	**$358,837**

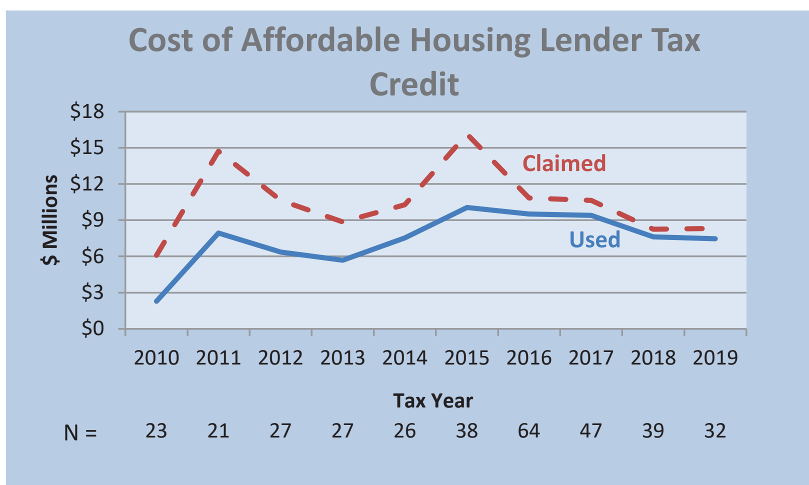
[27] Finance charges are interest, fees, and other charges related to the cost of obtaining the loan.

The example provides approximate calculations for a five percent loan compared to one percent loan that is eligible for the tax credit. In year one, a five percent rate would mean the lender would earn $75,000 from interest payments. A one percent interest rate reduces those earnings to $15,000. The difference of $60,000 is taken as an Oregon tax credit. Over the life of the loan, the lender is allowed to claim a total of $358,837 in tax credits, the difference in interest payments between the two loans. The exhibit to the right provides a visual display of the tax credit value listed in the table.



Tax credit eligible housing projects include the construction, development, acquisition, or rehabilitation of specified housing: a manufactured dwelling park, low-income housing, or a preservation project.[28] Qualified loans are those that are certified by OHCS. OHCS may certify qualified loans such that the total amount of outstanding tax credits in any fiscal year does not exceed $35 million. Unused credit amounts may be carried forward for five years. A key element of this policy is that the recipient of the loan is often required to pass on the savings from the reduced interest rate to tenants in the form of reduced housing payments, regardless of other subsidies provided to the housing project.[29]

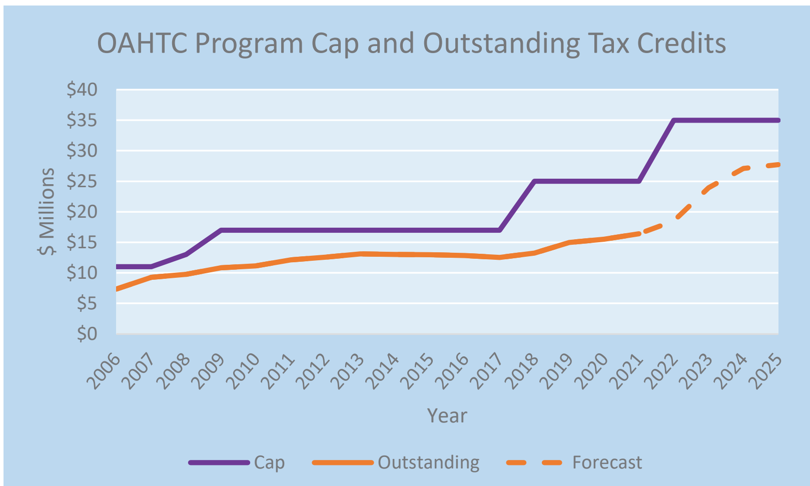
The graph below shows the history of the credits claimed and used, as reported on income tax returns from 2010 through 2019. Over these ten years, on average, $10.4 million in credits were claimed and $7.4 million were used to reduce tax liability. Credit usage has varied in recent years with a lower average usage rate in the years immediately following the great recession while increasing to above 90% in the most recent four years.



[28] Preservation funds provide grant funds to recapitalize and fund improvements to existing affordable housing at risk of loss. Categories of preservation housing include Federal Project Based Rent Assisted projects, Rent Assistance Demonstration (RAD)/Section 18 Federal, and Financial Restructuring for OHCS Portfolio Projects.

[29] In specific instances, the tax credit is not required to be passed through to tenants. See "Rent Reduction Pass-Through" subsection on page 29.

The chart below provides an approximate recent history of how the program has approached the cap over time.[30] The purple line shows the statutory cap for outstanding tax credits. In 2006, the program cap was $11 million in allowed outstanding tax credits. By 2009, the program cap had been increased to $17 million. The solid orange line shows the outstanding tax credits. Each year, newly certified tax credits use part of the cap while repaid loans create additional room under the cap. The dashed orange line shows a projection of outstanding credits for 2022 through 2025. The forecast assumes sufficient demand for the large pool of tax credits OHCS is offering in the near term.



Policy Analysis

Housing is a key factor in establishing and promoting healthy families and communities. Stable and affordable housing is often cited as a core factor in laying the foundation for economic health and opportunity. The larger the share of a family's income is spent on housing, the less there is to spend on other expenditures such as food, health care, education, and retirement savings. The long-term implications of these spending patterns on economic well-being can be significant.

Housing affordability is, by definition, a comparison of housing costs to income. Whether incomes are too low, or housing is too expensive, the net result is housing that is less affordable. Some researchers have argued that the source of the problem is that incomes are too low. For example, Feldman contends that if low incomes are the driver, then income-oriented policies such as expanding the Earned Income Tax Credit and providing housing vouchers may provide the most efficient solutions (Feldman, 2002). Others argue that the problem is simply one of housing supply (Congressional Research Service, 2020). Researchers at the Joint Center for Housing Studies suggest a multi-pronged approach that includes a reduction in regulatory barriers, increased development of low-cost rental units, and increased incentives to invest in affordable housing.

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[30] Data limitations prevent an exact accounting though the calculations do represent an approximation of how the program is administered.

Generally, the supply of affordable housing can be increased by a process known as "filtering" or by directly building more low-income housing. Filtering is the process whereby the housing market produces low-cost housing when new high-end housing is constructed and is purchased by high income households. Their former housing is then purchased by less wealthy families, and so forth until the lowest value housing becomes available for the lowest income families. This process can move slowly, especially when turnover in the housing market stagnates. A combination of slow income growth and strong population growth can put excessive stress on a housing market.

According to the most recent regional housing need report commissioned on behalf of OHCS, Oregon has a current housing shortage of nearly 140,000 homes and will need about 584,000 total new homes over the next 20 years to meet housing demand (OHCS & ECONorthwest, 2021). While new housing production is and will be needed throughout the household income spectrum, the housing market is often less responsive to low-income household housing needs, especially households with incomes below 50% of median family income (OHCS & ECONorthwest, 2021). The structure of Oregon's affordable housing tax credit (OAHTC) supports the availability of housing rented to households with lower incomes.

Affordable Housing Lender Tax Credit - Flow of Benefit

Lending Institution	Qualified Borrower	Affordable Housing Tenants
Absent credit, would lend at interest rate of 5% With credit, lends to ***qualified borrower*** at 1%	Benefits from being able to borrow at 1% instead of 5% **Pass Through Required**: Interest rate savings are passed through to ***tenants*** in the form of reduced housing payments **Pass Through not Required:** Interest rate savings accrue to qualified borrower	**Pass Through Required**: Tenants benefit directly from credit through additionally reduced housing payments **Pass Through not Required:** When no rent pass through required, tenants benefit from preservation of affordable housing (housing subject to other afforability restrictions)

Rent Reduction Pass-Through

The Oregon tax credit is taken over the 20-year lifespan of the related loans and is equal to the reduction in interest payments collected by the lender.[31] The reduced interest rate is a maximum of four percentage points below the market rate. In many instances the cost reduction must be passed on to renters in the form of lower rents. In this way, the tax credit complements other housing subsidy programs. Because the tax credit is equal to the foregone finance charges, the lending institution should be indifferent to taking the credit or collecting higher interest income associated with a higher interest rate loan. It is not uncommon in the financial sector for loans to get sold. The Oregon credit is structured so that if/when a qualified loan is sold, the remaining tax credit is transferred to the new loan holder. In essence, the tax credit “follows” the loan.

Notwithstanding specified exceptions for preservation projects and manufactured park purchase preservation, the OAHTC interest rate savings are required to be passed through to the tenants in the form of reduced housing payments. However, the rent reduction is not required to be distributed evenly among the housing units. As displayed in the diagram on page 27, the interest rate savings vary by year due to the amortization of the loan. As such, the rent reduction passed through to tenants is averaged over the lesser of the term of the loan or 20 years. The rent reduction pass through is not required to be distributed evenly among the units. When the OAHTC is paired with other funding sources that also require affordability restrictions, OAHTC must be used to lower rents after all other subsidies and requirements for rents have been applied. For example, if a property is required (due to other subsidy requirements) to rent housing at an amount affordable to households earning less than 80% of AMI, then such property must further reduce rents when benefitting from the OAHTC. In this way, the OAHTC produces lower rents for low-income households. According to OHCS, nearly all households that benefit from the OAHTC earn less than 50% of AMI and in many cases earn less than 30% (OHCS, 2022).

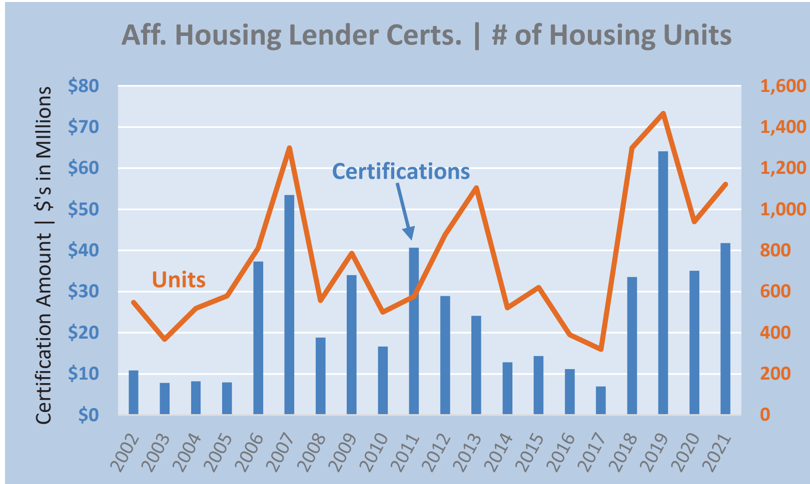
When OAHTC funds are used to preserve affordability in projects that have certain federal rent assistance, there is no requirement to pass through interest savings to tenants. The intent of these preservation projects is to provide grant funds to recapitalize and fund improvement to existing affordable housing at risk of loss. There is also no pass-through requirement for manufactured dwelling park preservation projects. The borrower for a manufactured dwelling park preservation project must be a nonprofit corporation, manufactured dwelling nonprofit cooperative, a state or local government agency, or a housing authority. The purpose of the support for manufactured park preservation is to assist nonprofits and/or park resident groups to gain control over rising rents or take control of parks that are considering closing (OHCS, 2022).

For the twenty years of 2002 - 2021, about 40% of the OAHTC loan amount certified was for projects where rent pass through requirements were applicable. About 7% was for manufactured park preservation and the other 55% was for other preservation projects (OHCS Affordable Rental Housing Developments by County, 2022). The 2021 OAHTC Resource Pool Announcement indicates a continued focus of tax credit funds being directed towards preservation projects (OHCS, 2021).

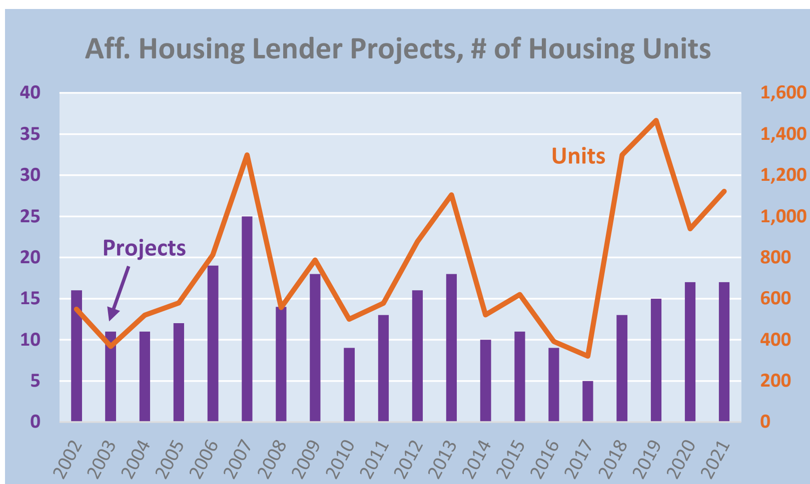
[31] Thirty years if the qualified loan has a contract for rent assistance or financing resources from the U.S. Dept. of Agriculture

Credit Use and Other OHCS Housing Subsidy Programs

The exhibit below displays the OAHTC loan amount certified by OHCS for years 2002 through 2021.[32] The blue column provides the annual loan certification amount and corresponds with the left vertical axis whereas the reddish line displays the annual aggregate number of units associated with the project receiving the credit (corresponds with right axis). For the period 2002-2021, 279 projects associated with about 15,000 units received credit certification. As displayed, loan amount certifications can vary by year. It's important to note that 'certifications' in this chart reflects the certified loan amount, which will influence the interest rate savings and the value of the credit, but the value of the credit itself varies due to the amortization of the loan and the interest rate savings (refer to example on page 26 of this report).



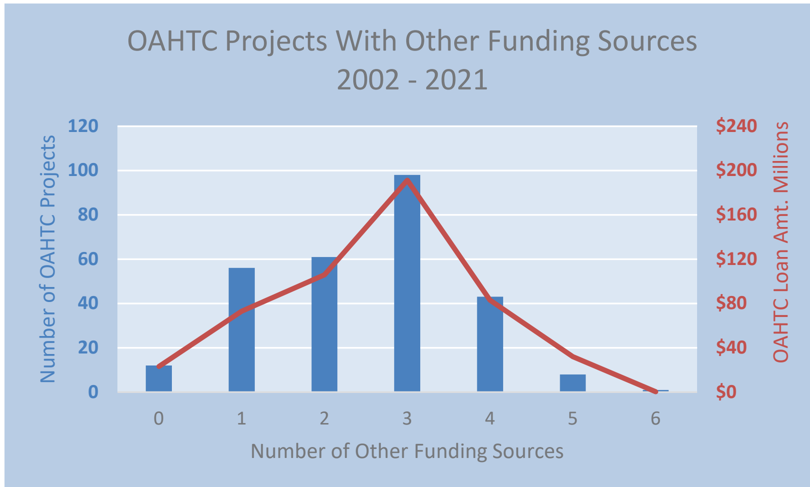
The exhibit below once again displays as a reddish line the number of units associated with credit certifications, but also displays the number of projects (represented as purple columns) associated with the credit certification of the year in which the project was first certified. Since 2002, an average of 14 projects per year have been initially certified for the credit.



By design, the OAHTC supports two general policy outcomes, increase housing affordability by decreasing rents, and incentivizing the preservation of affordable housing. The credit's incentivization of these outcomes works with other affordable housing incentives. For example, of the 279 projects that were certified for the OAHTC for years 2002 through 2021, all but 12 of the projects also benefitted from at least one other funding source (or subsidy program) administered by OHCS. The exhibit below displays the OAHTC certified projects for 2002 - 2021 and the number of other funding sources associated with the project. As represented by the blue columns and left axis, nearly 100 OAHTC projects (with an aggregate of nearly $200 million in loan certifications)

[32] Unless otherwise noted, information in this subsection of the report is derived from OHCS's Affordable Rental Housing Developments by County publicly available database (OHCS Affordable Rental Housing Developments by County, 2022).

had three other funding sources. While considerable variation exists by project, in total for the twenty-year period, other funding sources represented about double the OAHTC certified loan amount.



The above exhibit only reflects other funding sources tracked and contained in the OHCS database. Not included in the exhibit are other local funding sources such as Metro's supportive housing services income tax or tax subsidies such as locally administered property tax exemptions for nonprofit low-income housing.

OHCS combines several funding sources to fill gaps in financing for affordable housing developers, in exchange for covenants that keep rents affordable for a specified time period (typically 30 years) for people earning a percentage of area median income. Funding streams include the following: state funding (General Fund, lottery bond proceeds); Federal Funds (formula and competitive grants); OHCS's own bond proceeds, and fees; and administration of federal low-income housing tax credits and private activity bonds.

For the 2021-23 biennium, related program amounts that were budgeted for programs related to low-income multi-family affordable housing developments that most closely align with this tax credit are displayed in the table to the right.[33]

	2021-23 Legislatively Adopted Budget ($M)		
Direct Spending Program	***General Fund***	***Other Funds***	***Federal Funds***
Land and Property Acquisition	$40.0		
Smaller/Rural Affordable Housing Projects	$35.0		
Document Recording Fee[1]		$54.0	
Public Purpose Charge Funds		$19.7	
Program Fee Funds		$13.1	
Home Investment Partnership Program			$24.0
Affordable Rental Housing			$13.2
Affordable & Supportive Housing Units[2]		$410.0	
Federal Low Income Housing Tax Credits			$95.0

[1] Fee supports multi-family affordable housing construction, raises approximately $27M per year

[2] Article XI-Q general obligation bond proceeds for Local Innovation & Fast Track (LIFT) and Permanent Supportive Housing Programs

[33] Description and dollar amounts were provided by the Legislative Fiscal Office.

As displayed in the table above, after the category Affordable & Supportive Housing Units, the federal low-income housing tax credit represents the second largest category of related other funding sources. While the federal low-income housing tax credits and the Oregon tax OAHTC are not computationally connected, they are directly linked from a policy perspective. The federal credit is designed to increase the physical supply of low-income housing while the Oregon credit is designed to directly reduce the rents for the eligible residents and to preserve affordable housing. The federal credit is a production subsidy that is intended to increase the amount of housing investment above the level that would occur without the subsidy. The federal credits are allocated to each state on an annual basis.[34] The states, through their housing agencies, award these tax credits to developers for qualified projects. Developers may use the tax credits themselves or sell them to raise capital for their projects.

Key stakeholders in the production of low-income housing are developers, investors, credit claimants, and tenants. After federal tax credits have been allocated to developers, they often sell the tax credits - often via intermediaries - to investors in exchange for equity financing. The return for investors is limited to their tax liability, which is generally tied to broad economic forces. The direct tax credit beneficiary is the investor, not the developer or renter.

Depending on the type of housing project, the federal low-income housing tax credit is designed to be either a 70 percent or 30 percent subsidy of the eligible costs.[35] The larger subsidy is for new rental construction while the smaller incentive is for rehabilitated housing and new construction that is financed with tax-exempt bonds. In tax credit percentage terms, the larger incentive has been roughly a nine percent tax credit and the smaller a four percent tax credit. The actual tax credit percentage has been calculated by the U.S. Treasury using a formula that depends on the credit period length, subsidy level, and current interest rate. Because the credit period and subsidy level (70% or 30%) are set in law, the actual tax credit award can vary depending on interest rates.

Other States

Oregon appears to be the only state with a tax credit related to affordable housing that specifically targets lenders. About 25 states and the District of Columbia offer their own version of a low-income housing tax credit. These other states tax credits tend to be either a direct production subsidy similar to the federal credit or simply a direct percentage of the federal low-income housing tax credit.

Administrative Costs

Administrative costs are largely incurred by the OHCS department. For example, the department administers project applications and certifies awarded tax credits to ensure project qualification and that the tax credit cap is not exceeded. Monitoring is largely done by investors and their agents because their economic return is contingent upon compliance. Lenders are required to annually submit to OHCS a fee equal to five percent of the annual tax credits claimed for the prior calendar year. The Department of Revenue (DOR) incurs some incremental administrative costs associated with the credit. DOR may incur other marginal administrative costs associated with audit and enforcement relating to the tax credit.

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[34] For 2021, the state allocation ceiling is equal to the greater of $2.8125 multiplied by state population or $3.25 million (IRS, 2020).

[35] Eligible costs are less than the total cost of development and exclude some significant costs, such as land.

Statute	Tax Expenditure (TE) Name and TE Number (Number aligns with Governor's Tax Expenditure Report)				
317.097	**1.426 Oregon Affordable Housing Lender**				
	Year	**Bill**	**Chapter**	**Section(s)**	**Policy**
	1989	**HB 2826**	**1045**	**2**	**Created | Program cap of $37.5M in eligible loans | Credit equal to interest difference between loan rate and market rate | 15-year**
	1991	HB 3467	737	1	Eliminated loan duration cap of lesser of 10 years or loan duration | Defined terms, clarified requirements, added penalty for noncompliance
	1993	**HB 2443**	**813**	**8**	**Required full savings to be passed on to tenants regardless of other subsidies | Increase the program cap to $57M in loan amount | Program to focus on need but consider statewide**
	1995	**HB 2255**	**746**	**43**	**Carryforward limited to 5 year | Program cap changed from loan amount to tax credit amount | Program cap set to $3M in tax credits**
	1997	**HB 3543**	**425**	**1**	**Program cap increased to $4M in tax credits**
	1997	SB 125	631	458	Change definition of "lending institution"
	1997	SB 1144	839	31	IRC update to 12/31/1196
	1999	HB 2518	21	46	Technical changes
	1999	HB 2137	90	23	IRC update to 12/31/1998
	1999	**HB 2087**	**857**	**1,4**	**Extend credit through 2009 | Increase program cap to $5M in tax credits in TY 2000 and to $6M in TY 2002**
	2001	HB 2272	660	47,48	Remove IRC date
	2005	**SB 996**	**476**	**1,3**	**Extend credit through 2019 | Increase program cap to $11M | Modify definition of "finance charge" & "sponsoring entity"**
	2007	**HB 3201**	**843**	**61**	**Expand program to include "acquisition" and manufacturing dwelling park | Increase program cap to $13M in tax credits**
	2008	**HB 3619**	**29**	**6**	**Increase program cap to $17M in tax credits**
	2008	SB 1081	45	15	IRC update to 12/31/2007
	2009	HB 2157	5	25	IRC update to 12/31/2008
	2009	HB 2261	82	1a	Restructure/reorganize statute
	2009	HB 2255	609	8a	Requires borrower to be a nonprofit corporation, manufactured dwelling park nonprofit corporation, housing authority, or state/local government
	2009	HB 2078	909	28	IRC update to 5/1/2009
	2009	HB 2067	913	30,31	Extend sunset date to 1/1/2014
	2010	SB 1016	82	30	IRC update to 12/31/2009
	2011	SB 301	7	25	IRC update to 12/31/2010
	2011	HB 2527	475	1,2	Extend sunset date to 1/1/2020
	2012	SB 1531	31	24	IRC update to 12/31/2011
	2013	HB 2492	377	24	IRC update to 1/3/2013
	2014	HB 4003	52	26	IRC update to 12/31/2013
	2015	HB 2442	180	46	Change "State Housing Council" to "Oregon Housing Stability Council"
	2015	SB 63	442	18	IRC update to 12/31/2014
	2016	HB 4025	33	23	IRC update to 12/31/2015
	2017	HB 2315	284	1	Permits lenders to maintain eligibility when units are occupied by tenants receiving housing vouchers
	2017	SB 701	527	24	IRC update to 12/31/2016
	2017	**HB 2066**	**610**	**3,4**	**Extend sunset date to 1/1/2026 | Increase program cap to $25M in tax credits**
	2018	SB 1529	101	24	IRC update to 12/31/2017
	2018	HB 4028	111	3	Allows a nonprofit corporation or housing authority that has a controlling interest in the real property that is financed by a qualified loan to be considered a qualified borrower
	2019	SB 213	319	26	IRC update to 12/31/2018
	2019	HB 2141	483	9	Provide uniformity in administration of transferable tax credits and tax credits requiring agency certification
	2021	HB 2457	456	25	IRC update to 4/1/2021
	2021	**HB 2433**	**525**	**29**	**Increase program cap to $35M in tax credits in any fiscal year | Expands qualification for credit**