

Chapter 278

1961 REPLACEMENT PART

Insurance on State Property

278.005	Definitions	278.050	Use of Restoration Fund for restoring lost or damaged property; effect of supplemental insurance
278.011	State agencies to submit biennial appraisals of certain property; review of appraisals	278.052	Right of action against person responsible for loss; investigations
278.020	Restoration Fund; proportionate contributions by state agencies	278.054	Biennial report on fund to be furnished to and published by State Fire Marshal
278.022	State agencies to submit annual appraisals of vessels; contributions to Restoration Fund based on vessel's value	278.056	Biennial report on fund to be furnished to legislature
278.025	Contributions to Restoration Fund reduced when supplemental insurance is purchased	278.060	Adoption of rules and regulations
278.030	Additional contributions to fund authorized in case of extraordinary hazard	278.070	Certain laws not repealed
278.035	Purchase of excess catastrophe insurance	278.085	State agency insurance supplemental to that provided by Restoration Fund
278.040	Moneys in fund; administrative expenses	278.090	Insurance on state vehicles
		278.990	Penalties

CROSS REFERENCES

278.020	Disposition of moneys received by state agency as payment for repair or replacement of damaged, destroyed, lost or stolen property, 291.666
Transfer of part of Restoration Fund to General Fund after January 1, 1962, 1961 c 448 §17	Equipment pool of State Forester, 526.160
278.022	Insurance of horse barn facilities, 565.160
Insurance on state owned and operated ferries, 384.435	278.060
278.035	Rules and regulations of state agencies, Ch 183
State purchasing generally, 279.710 to 279.791	278.085
278.040	Insurance to supplement Restoration Fund for certain buildings, 276.128, 276.154, 276.516, 276.536, 351.180, 565.142
Investing Restoration Fund, 291.604	278.090
278.050	Adopting rules and regulations for the administration and enforcement of ORS 278.090, 291.014
Department of Finance and Administration to reconstruct buildings damaged by fire, 276.246	

278.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Department" means the Department of Finance and Administration.

(2) "State agency" or "agency" means each state institution, department, board, commission or activity of whatever nature.

(3) "Vessel" means a structure made to float upon the water for purposes of navigation which is powered by an inboard marine engine.

[1961 c 448 §2]

278.010 [Repealed by 1953 c 581 §11]

278.011 State agencies to submit biennial appraisals of certain property; review of appraisals. (1) At the time determined by the Department of Finance and Administration, each state agency shall prepare and submit a biennial statement of the appraised value of its property, except that subject to ORS 278.022, to the department. The appraised value of the property shall be established on the basis of present day replacement costs excluding the value of land, paving, sidewalks and excavations.

(2) No technical or professional assistance need be utilized by the state agency in forming its judgment of the appraised value of its property; but, if it determines that technical or professional assistance is necessary to make a reasonable judgment as to the appraised value of its property, the state agency may utilize technical and professional assistance for that purpose. The cost and expense of such technical or professional assistance shall be paid from funds appropriated for the biennial period for paying the general and current expenses of the state agency.

(3) The department shall examine each statement of appraised value submitted pursuant to subsection (1) of this section. If the department determines that the judgment of any state agency as to the appraised value of its property is unreasonable, the department shall notify the state agency of that fact and require it to submit a reasonable judgment as to the appraised value of its property. If a reasonable judgment as to the appraised value of the property of any state agency cannot be secured from it, the department shall make a determination as to the appraised value of the property in question. The cost and expense incurred by the department in making such determination shall be paid from the funds appropri-

ated for the biennial period for paying the general and current expenses of the state agency owning, controlling or possessing the property.

[1953 c 581 §9, 1957 c 385 §1; 1961 c 448 §3]

278.020 Restoration Fund; proportionate contributions by state agencies. (1) Upon ascertaining the value of the property under ORS 278.011 the department shall apportion to each state agency its proportionate contribution to a sum of not more than \$400,000 to be set aside on July 1 of each year, for the purpose of replacing or rebuilding any property designated in ORS 278.011 that may be lost, damaged or destroyed by fire, smoke, explosion, storm, flood or earthquake, until the sum of \$3 million has been accumulated.

(2) The contribution required of each state agency under subsection (1) of this section shall be based upon the ratio which the appraised value of the buildings, equipment, furniture and other property of such state agency bears to the total value of such property of all state agencies coming under the operation of ORS 278.011 to 278 070

(3) When the Restoration Fund reaches \$3 million, thereafter the department shall make further annual apportionments on July 1 of each year as provided in this section so that the Restoration Fund is maintained at \$3 million; but such apportionments shall not exceed \$400,000 for any year.

[Amended by 1953 c 581 §11; 1961 c 448 §4]

Note: Section 16 of chapter 448, Oregon Laws 1961, has not been compiled because it is temporary, but it is set out below for the convenience of the user

Sec. 16. Notwithstanding the requirements of ORS 278 020 or section 11 of this 1961 Act [ORS 278 022], during the biennium beginning July 1, 1961, the annual contribution pursuant to such sections shall not be made

278.022 State agencies to submit annual appraisals of vessels; contributions to Restoration Fund based on vessel's value. (1) At a time determined by the department, each state agency owning or having control of vessels shall prepare and submit an annual statement of the appraised value of the vessels to the department. The appraised value of the vessels shall be established on the basis of present-day replacement costs. The annual appraisal of the vessels shall be conducted in conformity with the provisions of subsections (2) and (3) of ORS 278.011

(2) Upon ascertaining the value of the vessels, the department shall determine the annual contribution to the Restoration Fund

of each state agency owning or having control of vessels. The rate of contribution on vessels shall be not more than \$10 a year on each \$1,000 of estimated replacement cost. The contribution paid under this section is in lieu of the contribution required by ORS 278.020, and is for the purpose of replacing or rebuilding any property designated in ORS 278.011 and any vessel designated in this section that may be lost, damaged or destroyed by fire, smoke, explosion, storm, flood or earthquake.

(3) In addition to the risks covered under subsection (2) of this section, if any vessel designated in subsection (1) of this section is damaged or destroyed because of loss or damage to "hull and machinery," as that risk is defined in the usual policies of marine insurance, the department shall restore the vessel out of the Restoration Fund.

(4) The moneys arising from the operation of this section shall be paid into the State Treasury and credited to the Restoration Fund

[1961 c 448 §11]

Note: See note under ORS 278 020

278.025 Contributions to Restoration Fund reduced when supplemental insurance is purchased. Whenever supplemental insurance is purchased, as provided in ORS 278.085, as an addition to Restoration Fund coverage, the property so insured shall be allowed an 80 percent discount on the assessment contribution to the Restoration Fund for such insured property.

[1953 c 581 §5]

278.030 Additional contributions to fund authorized in case of extraordinary hazard. Whenever an extraordinary hazard of loss or damage by fire exists as to any property of the various state institutions, departments, boards, commissions and activities, the Department of Finance and Administration may fix, determine and apportion to the state institution, department, board, commission or activity owning, controlling or possessing such property, in addition to the contributions required by ORS 278.020, such further contributions to the Restoration Fund as the Department of Finance and Administration deems reasonable and conformable to standard insurance practices. In fixing and determining the additional contributions as to properties involving such an extraordinary hazard the Department of Finance and Administration shall consider each of such properties separately and shall

set a rate thereon. In determining such rate the department may consider the physical, occupational, moral and other hazards involved as to each of such properties, the loss experience on properties of such class, and the schedule of rates applicable to similar properties filed by the Oregon Insurance Rating Bureau with the State Insurance Commissioner.

278.035 Purchase of excess catastrophe insurance. (1) The department may procure and keep in force one or more policies of excess catastrophe insurance on the property designated in ORS 278.011 against the hazards covered by the Restoration Fund. The catastrophe insurance shall insure the Restoration Fund against a loss in excess of a determined amount arising from any single catastrophe caused by fire, smoke, explosion, storm, flood or earthquake, or any combination of such causes. The department shall determine the amount in the Restoration Fund in excess of which the catastrophe insurance shall cover. As used in this subsection, "any single catastrophe" has the meaning defined in the usual policies of catastrophe insurance.

(2) The purchase of catastrophe insurance by the department shall be based on competitive bids.

(3) The premiums for the excess coverage under this section shall be paid from the Restoration Fund but shall not exceed \$300,000 in any three-year period.

(4) If the department purchases catastrophe insurance pursuant to this section, no company may be permitted to assume a share of the catastrophe insurance risk in excess of the amount permitted by law based upon the assets and liabilities of the company

[1961 c 448 §§6, 7]

278.040 Moneys in fund; administrative expenses. The moneys arising from the operation of ORS 278 011 to 278.070 shall be set aside by the State Treasurer and credited to the Restoration Fund. The moneys in the Restoration Fund are continuously appropriated to the department for the purpose of paying the expenses of administering ORS 278.011 to 278.070

[Amended by 1961 c 448 §8]

278.050 Use of Restoration Fund for restoring lost or damaged property; effect of supplemental insurance. (1) Subject to subsections (2) and (3) of this section, if any

property designated in ORS 278.011 is lost, damaged or destroyed through fire, smoke, explosion, storm, flood or earthquake, the department shall restore such property out of the Restoration Fund provided in ORS 278.020

(2) With respect to property insured by supplemental insurance as provided in subsection (1) of ORS 278.085:

(a) If the loss, damage or destruction was the result of a risk or casualty covered by the insurance, no part of the cost of restoring the property shall be paid from the Restoration Fund.

(b) If the loss, damage or destruction was the result of a risk or casualty not covered by the insurance and the property is restored, there shall be paid from the Restoration Fund the entire cost of restoring the property or the value of the property declared in accordance with ORS 278.011, whichever is less.

(3) With respect to property insured by supplemental insurance as provided in subsection (2) of ORS 278.085, the amount to be paid from the Restoration Fund for restoring the property shall be whichever of the following amounts is the lesser:

(a) The difference between the cost of restoration and the portion of that cost which is covered by supplemental insurance.

(b) Twenty percent of the appraised value of the property as declared in accordance with ORS 278.011.

(4) The Secretary of State shall audit all claims approved by the department in carrying out the provisions of ORS 278.011 to 278.070 and shall draw his warrants on the State Treasurer in the payment thereof out of the Restoration Fund.

[Amended by 1953 c 581 §11; 1957 c 385 §2, 1961 c 448 §9]

278.052 Right of action against person responsible for loss; investigations. (1) If a payment is made out of the Restoration Fund to a state agency to restore any property covered by the Restoration Fund, the department is subrogated, to the extent of the payment, to the rights of the state agency against any person or other entity legally responsible in damages for the loss. The department may commence an appropriate action in any court, in the name of the state, to enforce the rights. Any amounts recovered as a result of the proceeding shall be paid into the State Treasury and credited to the Restoration Fund.

(2) The department may conduct an investigation of a loss to determine whether legal action should be commenced. The department may administer oaths and examine witnesses in connection with its investigation. The State Fire Marshal and the Department of State Police shall cooperate with the Department of Finance and Administration in the investigation.

[1961 c 448 §12]

278.054 Biennial report on fund to be furnished to and published by State Fire Marshal. (1) Each biennium, at the time provided in subsection (3) of this section, the Director of the Department of Finance and Administration shall furnish to the State Fire Marshal a report on the Restoration Fund.

(2) The report shall include a schedule of:

(a) Assessments and contributions to the Restoration Fund.

(b) Loss payments from the Restoration Fund.

(c) Properties on which insurance has been purchased as provided in ORS 278.085 and the amounts of such insurance.

(3) The report required by subsection (1) of this section shall be furnished to the State Fire Marshal within a sufficient time before the publication of the biennially published report of the State Fire Marshal's office so that the State Fire Marshal may include the information in his report. The State Fire Marshal shall include the report so furnished in his biennially published report.

[1953 c 581 §6]

278.056 Biennial report on fund to be furnished to legislature. During the first week of each regular session of the Legislative Assembly, the Department of Finance and Administration shall make a report to the Joint Ways and Means Committee indicating the condition of the Restoration Fund and containing recommendations with respect to the Restoration Fund

[1953 c 581 §7]

278.060 Adoption of rules and regulations. The department may adopt the rules and regulations it deems necessary for carrying into full force and effect the provisions of ORS 278.011 to 278.070.

[Amended by 1961 c 448 §13]

278.070 Certain laws not repealed. ORS 278.011 to 278.070 do not repeal the provisions of ORS 276 246.

[Amended by 1961 c 448 §14]

278.080 [Amended by 1953 c 581 §11, repealed by 1959 c 12 §1]

278.085 State agency insurance supplemental to that provided by Restoration Fund.

(1) Any state agency having control of property built with borrowed funds and required by the terms of the loan agreement to keep the building insured against specified risks shall, until the loan has been repaid, keep the property insured against the risks specified in an amount equal to the appraised value as declared in accordance with ORS 278.011.

(2) Any state agency may, with the approval of the department, insure any property under its control, other than property insured as provided in subsection (1) of this section, against loss, damage or destruction by fire, storm, theft, collision or other hazard.

(3) The premium for such insurance shall be paid out of the appropriations made for or the funds subject to the disposition of the state agency carrying such insurance. Such

insurance shall be supplemental to that afforded by the Restoration Fund, without right of the supplementary insurers, in event of loss, to subrogation to or contribution from that fund.

[1953 c 581 §1; 1957 c 385 §3, 1961 c 448 §15]

278.090 Insurance on state vehicles. The Department of Finance and Administration, and all other state agencies, shall carry liability and indemnity insurance on the motor vehicles under their control, for the protection of any officer or employe of the state operating such a motor vehicle in the performance of his official duties. In the case of state agencies, the premiums for such insurance shall be paid out of their respective appropriations or funds, and in the case of the Department of Finance and Administration the premiums shall be paid out of the Administrative Services Revolving Fund.

[Amended by 1955 c 288 §1, 1959 c 662 §18]

278.100 to 278 980 [Reserved for expansion]

278.990 Penalties. The provisions of subsection (1) of ORS 291.990 apply to ORS 278.090. Any violation of ORS 278.090 shall, upon conviction, be punished as prescribed in subsection (1) of ORS 291.990.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law
Done at Salem, Oregon,
on December 1, 1961

Sam R. Haley
Legislative Counsel

