Chapter 278

1969 REPLACEMENT PART

Insurance on State Property

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278.070 Certain laws not repealed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

CROSS REFERENCES

Ownership of property by Oregon State Bar, 9.010

278.020

Additional assessments from state agencies, 278.043

278.022

Insurance on state owned and operated ferries, 384.435

278.035

State purchasing generally, 279.710 to 279.791

278.040

Investing Restoration Fund, 293.701 to 293.776

278.050

Department of General Services to reconstruct buildings damaged by fire, 276.246
Disposition of moneys received by state agency as payment for repair or replacement of damaged, destroyed, lost or stolen property, 283.240
Equipment pool of State Forester, 526.142 to 526.152
Insurance of horse barn facilities, 565.160

278.060

Rules and regulations of state agencies, Ch. 183

278.085

Insurance to supplement Restoration Fund for certain buildings, 276.128, 351.180, 565.142

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

(1) "Department" means the Department of General Services.

(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278.010 [Repealed by 1953 c.581 §11]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 appraisals of certain property; review. (1) At times determined by the Department of General Services, each state agency shall prepare and submit a statement of the appraised value of its property, except the property 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 and foundations of buildings and machinery or equipment which are below the surface of the ground or below the undersurface of the lowest basement floor or, if there is no basement, below the surface of the ground inside the foundation walls of the building.

(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 appropriated 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; 1965 c.140 §1; 1969 c.670 §5]

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 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, lightning, riot, riot attending a strike, hail, aircraft, vehicles, smoke, explosion, storm, vandalism and malicious mischief, flood or earthquake.

(2) Except as provided in ORS 278.043, the contribution required of each state agency under subsection (1) of this section shall be one-tenth of one percent of the appraised value of the buildings, equipment, furniture and other property of such state agency. The minimum contribution for any state agency shall be $5. Agencies reporting less than $500 of appraised value of property shall make no contribution.

(3) When the Restoration Fund reaches an amount equal to two percent of the appraised value of the buildings, equipment, furniture and other property of all state agencies subject to ORS 278.011 to 278.070, 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 such amount; but such apportionments shall not exceed for any year an amount equal to one-tenth of one percent of the appraised value of the buildings, equipment, furniture and other property of all state agencies subject to ORS 278.011 to 278.070.

[Amended by 1953 c.581 §11; 1961 c.448 §4; 1963 c.634 §4; 1967 c.262 §1; 1969 c.670 §1]

278.022 State agencies to submit appraisals of vessels; contributions to fund. (1) At times determined by the department, each state agency owning, controlling or possessing vessels and property thereon, or property on any other vessel, shall prepare and submit a statement of the appraised

value of its vessels and property to the department. The appraised value of the vessels and property shall be established on the basis of present-day replacement costs. The appraisal of the vessels and property shall be conducted in conformity with the provisions of subsections (2) and (3) of ORS 278.011.

(2) Upon ascertaining the appraised value of the vessels and property designated in subsection (1) of this section, the department shall determine the annual contribution to the Restoration Fund of each state agency owning, controlling or possessing such vessels and property. The rate of contribution on the vessels and property shall not exceed $10 a year on each $1,000 of estimated replacement cost. The contribution paid under this section shall be in lieu of the contribution required by ORS 278.020 on such vessels and property, and is for the purpose of replacing or rebuilding any property designated in ORS 278.011 and any vessels, property thereon, and property on any other vessel, as designated in subsection (1) of this section, that may be lost, damaged or destroyed by any of the hazards described in ORS 278.020.

(3) In addition to the hazards described in ORS 278.020, if any vessel or property designated in subsection (1) of this section is damaged or destroyed as a direct result of collision with another vessel, striking any object, whether submerged or not, grounding, or stranding, the department shall pay the cost of restoring the vessel or property out of the Restoration Fund in an amount not to exceed the appraised value established pursuant to subsection (1) of this section. If a vessel designated in subsection (1) of this section becomes disabled for any reason, the department shall reimburse the agency from the Restoration Fund for the cost of towing the vessel to the nearest port.

[1961 c.448 §11; 1965 c.140 §2; 1969 c.670 §6]

278.025 Contributions to 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 to such extent as the coverage is of the same hazards covered by the Restoration Fund.

[1953 c.581 §5; 1969 c.670 §7]

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 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 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 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. The catastrophe insurance shall insure the Restoration Fund against a loss in excess of a determined amount caused by any of the hazards described in ORS 278.020, or any combination of such causes.

(2) The premiums for the excess coverage under this section shall be paid from the Restoration Fund but shall not exceed $200,000 in any year.

(3) 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; 1969 c.670 §8]

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]

278.043 Additional assessment by state agencies to maintain fund. (1) If money is owed by the Restoration Fund to any of the funds mentioned in ORS 278.047, or if the Restoration Fund in any year is less than one-half of one percent of the total value of the buildings, equipment, furniture and other property of all state agencies subject to ORS 278.011 to 278.070, the department shall make an assessment on July 1 of that year in addition to that required under ORS 278.020 but in the manner prescribed by that section so that amounts owed may be repaid under ORS 278.047 and the Restoration Fund may be maintained at one-half of one percent of the total value of the buildings, equipment, furniture and other property of all state agencies subject to ORS 278.011 to 278.070. From such additional assessment, amounts specified in ORS 278.047 first shall be repaid and the remainder of the assessment shall be credited to the Restoration Fund.

(2) In no event shall the additional assessment under this section for any year exceed one-tenth of one percent of the total value of the buildings, equipment, furniture and other property of all state agencies subject to ORS 278.011 to 278.070.
[1969 c.670 §3]

278.047 Authority to borrow and use other funds when Restoration Fund insufficient; repayment. (1) In any year when the moneys in the Restoration Fund are not sufficient to make all payments under ORS 278.011 to 278.070, the department may borrow and use for that purpose moneys in the Common School Fund, the Industrial Accident Fund and the Public Employes' Retirement Fund, or any one or more of these funds, to the extent necessary to accomplish the replacement and rebuilding.

(2) Amounts borrowed for purposes of subsection (1) of this section shall be repaid to each fund from which they were borrowed out of additional assessments under ORS 278.043 in annual instalments each not less than one-tenth of the aggregate amount borrowed from such fund and not repaid, but in no event less than $50,000. Repayments shall be applied first in payment of interest at a rate equivalent to the prevailing commercial rates of interest on comparable investments, as determined by the Department of General Services, on the aggregate amount borrowed but not repaid, and the remainder shall be applied in partial repayment of the principal amount borrowed.
[1969 c.670 §4]

278.050 Use of 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 of an appraised value of $500 or more is lost, damaged or destroyed by any of the hazards described in ORS 278.020, the department shall pay the cost of restoring the property out of the Restoration Fund in an amount not to exceed the appraised value established pursuant to ORS 278.011.

(2) Any amounts received by an agency from the Restoration Fund may be applied for purposes other than the restoration of the property destroyed provided such use is approved by the Executive Department and further, in the event the amount received from the Restoration Fund exceeds $50,000, approval must also be received from the Legislative Assembly if in session, or the Emergency Board if during the interim. If the restoration of any property designated in ORS 278.011 that is lost, damaged, or destroyed by any of the hazards described in ORS 278.020 is not required, the cost of razing the property may be paid out of the Restoration Fund.

(3) 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.

(4) 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.

(5) The Executive Department shall draw warrants on the State Treasurer payable from the Restoration Fund for all claims approved by the department in carrying out the provisions of ORS 278.011 to 278.070.

[Amended by 1953 c.581 §11; 1957 c.385 §2; 1961 c.448 §9; 1965 c.140 §3; 1969 c.670 §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 General Services 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 General Services 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 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 a hazard described in ORS 278.020 or any 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, 1969 c.670 §10]

278.090 Insurance on state vehicles. The department 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 the premiums shall be paid out of the General Services Revolving Fund.

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

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

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1969.

Robert W. Lundy
Legislative Counsel