

Chapter 456

1989 EDITION

Housing; Building, Housing and Real Estate Council

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DEFINITIONS

456.005 Definitions for ORS 456.005 to 456.720. As used in ORS 456.005 to 456.720:

(1) "Authority" or "housing authority" means any public corporation created under ORS 456.075 to 456.090.

(2) "Federal Government" includes the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

(3) "Housing Authorities Law" means ORS 456.055 to 456.230. [amended by 1989 c 874 §7]

HOUSING AUTHORITIES LAW

456.055 General definitions for ORS 456.055 to 456.230. As used in the Housing Authorities Law, unless the context requires otherwise:

(1) "Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to the Housing Authorities Law. The giving of a note secured by a mortgage or trust deed will not constitute a bond.

(2) "The city" means the particular city included within a particular housing authority.

(3) "Clerk" means the recorder of the city or the clerk of the county, as the case may be, or the officer of the city or the county, respectively, charged with the duties customarily imposed on such clerk.

(4) "County" means any county in the state. "The county" means a particular county or counties for which a particular housing authority is created.

(5) "Governing body" means, in the case of a city, the common council or other legislative body thereof, and, in the case of a county, the county court or other legislative body thereof.

(6) "Housing authority" or "authority" includes a regional housing authority created under ORS 456.140.

(7) "Mayor" means the mayor of the city or the officer thereof charged with the duties customarily imposed on the mayor or executive head of the city.

(8) "Obligee of the authority" or "obligee" includes any bondholder or trustee for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

(9) "Person of lower income" and "family of lower income" means:

(a) A person or a family, residing in this state, who cannot obtain in the open market, decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of such person or family; or

(b) A program that provides specialized housing for a person or family described in paragraph (a) of this subsection.

(10) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(11) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health or morals. [Amended by 1971 c.471 §1; 1973 c.672 §1; 1987 c.821 §1; 1989 c 874 §1]

456.060 Definition of "area of operation." As used in the Housing Authorities Law, unless the context requires otherwise, "area of operation" includes:

(1) In the case of a housing authority of a city:

(a) The area within the city;

(b) If the city has adopted in its comprehensive land use plan an urban growth boundary recognized by the governing bodies of the counties in which it is situated, the area within that urban growth boundary; and

(c) Unless a county has an existing housing authority which is operating and substantially addressing the need for housing in the county for persons of lower income, the area within 10 miles from the territorial boundaries of the city, excepting any area which lies within the territorial or urban growth boundaries of some other city which has by ordinance prohibited such operation within the city or its urban growth boundaries because the city finds that:

(A) An existing public agency operating within the area is substantially addressing the need for housing in the city for persons of lower income; or

(B) There is no need for housing in the city for persons of lower income.

(2) In the case of a housing authority of a county, the area within the county which lies:

(a) Outside the territorial boundaries of any city or, if a city has adopted in its com-

prehensive land use plan an urban growth boundary recognized by the governing bodies of the counties in which it is situated, that urban growth boundary; and

(b) Inside the territorial or urban growth boundaries of any city unless the city has by ordinance prohibited such operation within the city or its urban growth boundary because the city finds that:

(A) An existing public agency operating within the area is substantially addressing the need for housing in the city for persons of lower income; or

(B) There is no need for housing in the city for persons of lower income.

(3) As used in this section, "need" means the conditions enumerated in ORS 456.085 (1)(a) and (b).

(4) Nothing in this section shall prevent units of local government from entering into intergovernmental agreements pursuant to ORS 190.003 to 190.110 for the purpose of:

(a) Establishing areas of operation which are different from the areas specified in this section, including agreements which utilize an urban growth boundary to allocate areas of operation between the housing authorities of a city and a county.

(b) Permitting a specific housing program or portion of a program to be operated in areas within the corporate limits of a city by an existing housing authority of a county or some other city. [Amended by 1973 c 672 §2; 1977 c.667 §1]

456.065 Definition of "housing project." As used in the Housing Authorities Law, unless the context requires otherwise, "housing project" means any work or undertaking:

(1) To demolish, clear or remove buildings from any slum area. Such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes.

(2) To provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons or families of lower income. Such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes authorized under ORS 456.055 to 456.230.

(3) To accomplish a combination of the projects listed in subsections (1) and (2) of this section, but it may also be applied to the planning of the buildings and improvements,

the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(4) To provide management, administration and contract services between the housing authority or other qualified housing sponsor and owners of decent, safe and sanitary housing for the purpose of providing housing assistance payments to owners on behalf of eligible families. [Amended by 1973 c.672 §3; 1977 c 667 §2; 1989 c.874 §2]

456.070 Declaration of necessity for establishment of housing authorities. It hereby is declared:

(1) That there exist in the state insanitary or unsafe dwelling accommodations and that persons and families of lower income are forced to reside in such insanitary or unsafe accommodations.

(2) That within the state there is a shortage of safe or sanitary dwelling accommodations available at rents which persons and families of lower income can afford and that such persons and families are forced to occupy overcrowded and congested dwelling accommodations.

(3) That the conditions stated in subsections (1) and (2) of this section cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection and other public services and facilities.

(4) That slum areas in the state cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons and families of lower income be relieved, through the operation of private enterprise, and that the construction of housing projects for persons and families of lower income would therefore not be competitive with private enterprise.

(5) That the clearance, replanning and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons and families of lower income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state concern.

(6) That it is in the public interest that work on projects for such purposes be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency.

(7) As a matter of legislative determination, that there is a necessity in the public interest for the Housing Authorities Law. [Amended by 1973 c 672 §4]

456.075 Housing authorities created; declaration of need required before housing authority may function. In each city, as defined in ORS 456.055, and county there hereby is created a public body corporate and politic to be known as the "housing authority" of the city or county. However, the housing authority shall not transact any business or exercise its powers until or unless the governing body of the city or the county, by proper resolution, declares that there is need for an authority to function in such city or county. The governing body of the city or the county shall also elect to have the powers of a housing authority exercised in any one of the two ways provided in ORS 456.095 (1). [Amended by 1969 c.630 §2; 1975 c.322 §1]

456.080 Determination of need for housing authority. (1) The determination whether there is a need for a housing authority to function in a city or county may be made either by election as provided in this section or by the governing body of a city or county on its own motion. The governing body of the city or county shall order the election when a petition is filed as provided in this section.

(2) A petition under this section must state that there is a need for a housing authority to function.

(3) Except as provided in subsections (4) and (5) of this section, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition:

(a) In the case of a county, in ORS 250.165 to 250.235.

(b) In the case of a city, in ORS 250.265 to 250.346.

(4) Notwithstanding ORS 250.325, a city governing body shall submit the question to the electors without first considering its adoption or rejection.

(5) If ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county or if ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the county or city charter or an ordinance adopted under the county or city charter.

(6) An election under this section shall be conducted under ORS chapters 246 to 260, and:

(a) In the case of a city, must be held on a date specified in ORS 221.230.

(b) In the case of a county, must be held on a date specified in ORS 203.085.

(7) If the electors voting at the election favor the functioning of the housing authority, the governing body shall declare that there is need for such housing authority to function.

(8) The question of need shall not again be submitted at any election within one year immediately following the election at which the question was voted upon. [Amended by 1983 c.350 §275]

456.085 Adopting resolution declaring need for authority. (1) The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, if it finds:

(a) That insanitary or unsafe inhabited dwelling accommodations exist in such city or county.

(b) That there is a shortage of safe or sanitary dwelling accommodations in such city or county available to persons or families of lower income at rentals they can afford.

(2) In determining whether dwelling accommodations are unsafe or insanitary, the governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. [Amended by 1973 c.672 §5]

456.090 Sufficiency of resolution; copy as evidence. (1) In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of authority, the authority is conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of a resolution by the governing body declaring the need for the authority. The resolution is deemed sufficient if it declares that there is a need for an authority and finds that either or both of the conditions enumerated in ORS 456.085 (1) exist in the city or county, in substantially the terms used in that subsection, no further detail being necessary.

(2) A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

456.095 Appointment and qualification of commissioners of housing authorities. (1) When the governing body of a city or

county adopts a resolution pursuant to ORS 456.085, the governing body may then elect to have the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547 exercised in any of the following ways:

(a) Appointing by resolution, a board or commission composed of five, seven or nine persons.

(b) Declaring, by resolution, that the governing body, itself, shall exercise the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547. In the event that the governing body of a city has an even number of members, the mayor shall be included as a member whenever the governing body is exercising the powers of a housing authority. However, any act of the governing body acting as a housing authority shall be, and shall be considered, the act of the housing authority only and not of the governing body.

(2) When the governing bodies of two or more authorities join and cooperate with one another and create a regional authority to exercise all the powers conferred by the Housing Authorities Law, as authorized by ORS 456.140, the governing bodies of the cooperating cities and counties shall by resolution appoint a board or commission for the regional authority consisting of nine commissioners. The cooperating cities and counties shall each appoint an equal number of the commissioners and, if nine divided by the number of such cities and counties produces a fraction, then the commissioners appointed by such cities and counties shall appoint one commissioner so that nine commissioners in all are appointed.

(3) No commissioner of such an authority may be an officer or employee of any city or county for which the authority is created, unless the commissioner is a member of the governing body or one of the governing bodies.

(4) Commissioners appointed to the board shall include a variety of occupations. One commissioner appointed under paragraph (a) of subsection (1) of this section shall be a tenant of the authority. Where there are presently no tenant commissioners on such authority boards, a tenant commissioner shall be appointed when the next vacancy occurs on such a board. A tenant commissioner is not required to be appointed unless the authority has at least 25 units occupied or 75 percent occupancy of the units available for occupancy, whichever occurs first.

(5) A certificate of appointment or reappointment of any commissioners shall be filed with the clerk of each of the cities and counties included in the authority. Such cer-

tificate shall be conclusive evidence of the due and proper appointment of a commissioner. [Amended by 1969 c.630 §3; 1971 c.592 §1; 1973 c.672 §6; 1975 c.335 §1]

456.100 Terms and compensation of commissioners. (1) The commissioners of a five-member authority who are first appointed shall serve for terms of one, two, three, four and five years, respectively, from the date of their appointment.

(2) The commissioners of a seven-member authority who are first appointed shall serve for terms of two for one year, two for two years, one for three years, one for four years and one for five years from the date of appointment.

(3) The commissioners of a nine-member authority who are first appointed shall serve for terms of two for one year, two for two years, two for three years, two for four years and one for five years from the date of appointment.

(4) Thereafter, commissioners shall be appointed by resolution in the same manner as their original appointment for a term of office of five years except that all vacancies shall be filled for the unexpired term. A commissioner shall hold office until a successor has been appointed and qualified.

(5) A commissioner shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of the duties of the commissioner. [Amended by 1973 c.672 §7]

456.105 Organization; officers; quorum; employees; legal services. (1) A majority of the commissioners of an authority shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes.

(2) Except as otherwise provided in the Housing Authorities Law, action may be taken by the authority upon a vote of a majority of the commissioners present, a quorum being present, unless the bylaws of the authority require a larger number.

(3) The authority shall select a chairman and vice chairman from among its commissioners.

(4) An authority may employ a secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it requires. It shall determine their qualifications, duties and compensation.

(5) For such legal services as it requires, an authority may, if it is not a regional authority, call upon the chief law officer of the city or the county or it may employ its own

counsel and legal staff. [Amended by 1973 c 672 §8]

456.110 Removal of commissioner. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority appointed pursuant to ORS 456.095 (1)(a) or (2) may be removed by the mayor or, in the case of an authority for a county, by the governing body of the county or, in the case of a regional authority, by the mayor of the city or the governing body of the county that appointed the commissioner. A commissioner shall not be removed until after the commissioner has been given a copy of the charges at least 10 days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk for each city and county in the authority. [Amended by 1969 c 630 §4; 1973 c 672 §9]

456.115 Commissioners and employees may not have interest in project other than as tenant; disclosure of interest. (1) No commissioner or employee of an authority shall acquire any interest in any housing project or in any property included or planned to be included in any project, nor shall the commissioner or employee of an authority have an interest except as a tenant in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.

(2) For the purposes of subsection (1) of this section, the leasehold interest of a tenant appointed to the board or commission under ORS 456.095 shall not be considered an interest in a project, property or contract if the leasehold interest is granted on the same basis and is subject to the same terms and conditions as other leasehold interests of other tenants of the authority. A tenant-commissioner shall refrain from voting on any action that affects the individual interest of the tenant-commissioner as distinguished from the interests of tenants as a class.

(3) If any commissioner or employee of an authority owns or controls an interest in any property included or planned to be included in any housing project, the commissioner or employee immediately shall disclose the same in writing to the authority. Such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office. [Amended by 1975 c.335 §2]

456.120 Powers of authority as public corporation. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the

purposes of the Housing Authorities Law. These powers shall be vested in the commissioners of the authority and shall include the following in addition to others granted in the Housing Authorities Law:

- (1) To sue and be sued.
- (2) To have a seal and to alter the same at pleasure.
- (3) To have perpetual succession.
- (4) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.
- (5) To make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with the Housing Authorities Law, to carry into effect the powers and purposes of the authority.
- (6) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants thereof.
- (7) Notwithstanding any laws to the contrary, to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government attaches to its financial aid of the project.
- (8) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, subject to the limitations of the Housing Authorities Law, to establish and revise the rents or charges therefor.
- (9) To own, hold and improve real or personal property.
- (10) To purchase, buy on contract, exchange, lease, lease back, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein and to give its mortgage or trust deed covering any real property or security agreement covering any personal property or any interest in either.
- (11) To sell, mortgage, lease, rent, exchange, transfer, assign, pledge or otherwise dispose of any real or personal property or any interest therein.
- (12) To insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.
- (13) To procure insurance or guarantees from the Federal Government of the payment of any debts or parts thereof, whether or not incurred by said authority, secured by mort-

gages on any property included in any of its housing projects.

(14) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

(15) To purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(16) To exercise all or any part or combination of powers granted in the Housing Authorities Law.

(17) To borrow money pursuant to ORS 456.175 to 456.210 or as otherwise allowed and accept advances, loans or grants or any other form of financial assistance or any combination of these forms of assistance from the Federal Government, state, county or other public body, or from any sources, public or private, for the purpose of undertaking and carrying out housing projects.

(18) To enter in a partnership agreement with an individual, partnership, corporation or other association to finance, plan, undertake, construct, acquire or operate a housing project. [Amended by 1987 c.821 §2; 1989 c.874 §3]

456.122 Inapplicability of laws relating to other public bodies. Unless specifically provided, no law with respect to the acquisition, operation or disposition of property by other public bodies applies to a housing authority.

456.125 Research, planning, construction and operation of housing projects. Within its area of operation, a housing authority may:

(1) Investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions.

(2) Determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons or families of lower income.

(3) Make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas and the problem of providing dwelling accommodations for persons or families of lower income. An authority may cooperate with the city, county or state or any of their political subdivisions in action taken in connection with such problems.

(4) Engage in research, studies and experimentation on the subject of housing.

(5) Prepare, carry out, acquire, lease and operate housing projects.

(6) Provide for the construction, reconstruction, improvement, alteration or repair

of any housing project or any part thereof. [Amended by 1973 c 672 §10]

456.130 Investigations, hearings and recommendations of authority. Any authority, acting through one or more commissioners or other persons designated by the authority, may:

(1) Conduct examinations and investigations and hear testimony and take proof under oath at private or public hearings on any matter material for its information.

(2) Administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and issue commissions for the examination of witnesses who are outside the state or unable to attend before the authority or excused from attendance.

(3) Make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within the area of operation, its findings and recommendations with regard to any buildings or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

456.135 Delegation of powers or duties. An authority may delegate to one or more of its agents or employees such powers or duties as it deems proper.

456.140 Joinder or cooperation of authorities. Any two or more authorities may join or cooperate with one another in the exercise of any or all of the powers conferred by the Housing Authorities Law for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of one or more of the authorities.

456.145 Eminent domain. (1) An authority may acquire, by the exercise of the power of eminent domain, any real property which it deems necessary for its purposes after adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided for in the laws of this state for the condemnation of lands or rights of way by public or quasi-public corporations for public use or for corporate purposes; or in the manner provided by law for the appropriation of real property, or rights therein or thereto, by private corporations; or in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain.

(2) Property already devoted to a public use may be acquired in like manner, but no real property belonging to the city, the county, the state or any political subdivision thereof may be acquired without its consent.

456.150 Housing projects subject to local laws; consideration of other programs. (1) All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated.

(2) In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

456.155 Profit from projects prohibited; computing maximum rentals; equity reserve. (1) It hereby is declared to be the policy of this state that:

(a) Each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations.

(b) No housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or the county.

(2) To the end stated in subsection (1) of this section, an authority shall fix the rentals for dwellings in its projects at no higher rates than it finds to be necessary in order to produce revenues which, together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived, will be sufficient to make all payments required or authorized by this chapter, chapter 455 and ORS 446.515 to 446.547, including but not limited to, revenues sufficient:

(a) To pay, as they become due, the principal and interest on the bonds of the authority.

(b) To meet the cost of, and to provide for, the maintenance and operation of the projects, including the cost of any insurance, and the administrative expenses of the authority.

(c) To create, during not less than the six years immediately succeeding issuance of any bonds, a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

(3) Notwithstanding paragraph (b) of subsection (1) of this section, a housing author-

ity may retain as an equity reserve any residual moneys which are not required to be returned to the Federal Government or otherwise required for specified reserves.

(4) Notwithstanding any provisions of this section to the contrary, a housing authority may establish and maintain reasonable reserves for the purpose of providing additional housing projects and otherwise administering its programs pursuant to this chapter and ORS 446.515 to 446.547. [Amended by 1977 c.343 §1, 1989 c.874 §4]

456.160 Limitations as to rentals. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(1) It may rent or lease the dwelling accommodations only to persons or families of lower income, except:

(a) Where an authority enters into a lease agreement under which the authority manages residential units for the owner thereof, a substantial number of such units shall be rented or leased to persons or families of lower income; or

(b) When an acquisition of an existing rental houses a tenant not of lower income, that person or family may remain in the unit for a period not to exceed 12 months following acquisition, at the discretion of the authority, unless determined ineligible for reasons other than income qualification.

(2) It may rent or lease the dwelling accommodations at rentals no higher than will provide total rental income sufficient to give financial stability to the housing authority. However, this limitation shall not apply to residential units that are not occupied by families receiving assistance from an authority where an authority manages such units pursuant to a lease agreement with the owner thereof in accordance with subsection (1) of this section.

(3) It may rent or lease to a tenant dwelling accommodations consisting of the number or rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof without overcrowding. [Amended by 1973 c.672 §11; 1977 c.667 §3; 1987 c.821 §3]

456.165 Vested rights of creditors not affected by restrictions of ORS 456.155 and 456.160. ORS 456.155 and 456.160 do not limit the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure proceedings, free from all the restrictions imposed by those sections.

456.170 Reports and recommendations by authority. At least once a year, an authority shall file with the clerk of each city and county in the authority a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of the Housing Authorities Law. [Amended by 1973 c 672 §12]

456.175 Issuance of bonds; means for payment. An authority may issue bonds from time to time in its discretion upon the resolution adopted by a majority vote of the commissioners for any of its corporate purposes. An authority may also issue refunding and advance refunding bonds for the purpose of paying or retiring bonds previously issued by it. [Amended by 1989 c.874 §5]

456.180 Liability on bonds; debt limitation. (1) Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(2) The bonds and other obligations of an authority shall not be a debt of the city, the county, the state or any political subdivision thereof, and the bonds and obligations shall so state on their face. Neither the city, the county, nor the state or any political subdivision thereof shall be liable thereon. Nor, in any event, shall such bonds or obligations be payable out of any funds or properties other than those of the authority.

(3) The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

456.185 Issuance of bonds; type, form and sale of bonds. (1) Bonds of an authority shall be authorized by its resolution adopted by a vote of a majority of the commissioners, and may be issued in one or more series. The bonds may be payable at the office of the county treasurer.

(2) The bonds shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payments, at such places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture or mortgage may provide. Bonds of an authority may be issued in zero coupon form or subject to federal taxation of interest thereon if the resolution authorizing issuance so provides. Each bond payable at the office of the county treasurer shall be signed by, and registered in accordance with ORS

208.200 in the office of, the county treasurer of the county where the authority is located.

(3) The bonds may be sold at public sale held after notice published once at least five days prior to such sale in a newspaper having a general circulation in the area of operation and in a financial newspaper published in San Francisco, California, or in New York, New York. However, at the discretion of an authority, if the resolution authorizing issuance so provides, the bonds may be sold on a negotiated basis or at private sale without any public advertisement. [Amended by 1969 c.694 §13, 1973 c 672 §13; 1977 c.188 §5, 1981 c.94 §42, 1989 c 874 §§]

456.190 Signatures validated; presumption of validity of bond. (1) In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons cease to be commissioners or officers before the delivery of such bonds, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any law to the contrary notwithstanding, bonds issued pursuant to the Housing Authorities Law are fully negotiable.

(2) In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodation for persons or families of lower income is conclusively deemed to have been issued for a housing project of such character and said project is conclusively deemed to have been planned, located and constructed in accordance with the Housing Authorities Law. [Amended by 1973 c.672 §14]

456.195 [Repealed by 1989 c 874 §9]

456.197 [1969 c.694 §15; 1973 c 672 §15, repealed by 1989 c 874 §9]

456.200 Powers of authority in securing payment of bonds or lease obligations. In connection with the issuance of bonds or the incurring of obligations and in order to secure the payment of such bonds or obligations, an authority may:

(1) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or thereafter comes into existence.

(2) Mortgage its real or personal property, then owned or thereafter acquired.

(3) Covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property to which its right or title then exists or may thereafter come into

existence or against permitting or suffering any lien on such revenues or property.

(4) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof.

(5) Covenant as to what other or additional debts or obligations may be incurred by it.

(6) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

(7) Provide for the replacement of lost, destroyed or mutilated bonds.

(8) Covenant against extending the time for the payment of its bonds or interest thereon.

(9) Redeem the bonds and covenant for their redemption and provide the terms and conditions thereof.

(10) Covenant, subject to the limitations of the Housing Authorities Law, as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.

(11) Create or authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves or other purposes, and covenant as to the use and disposition of the moneys held in such funds.

(12) Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(13) Covenant as to the use, maintenance and replacement of its real and personal property, the insurance to be carried thereon and the use and disposition of insurance moneys.

(14) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(15) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(16) Vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds.

(17) Vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee.

(18) Provide for the powers and duties of a trustee or trustees and to limit their liabilities.

(19) Provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(20) Exercise all or any part or combination of the powers granted in this section.

(21) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.

(22) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, tending to make the bonds more marketable although the covenants, acts or things are not enumerated in this section.

(23) Purchase letters of credit, bond insurance or any other credit enhancement device that would establish or increase marketability of its bonds.

(24) Pay its obligations with income and revenues of the housing project financed with the proceeds of such obligations, or with such proceeds together with a grant from the Federal Government or this state in aid of such project. [Amended by 1987 c 821 §5; 1989 c 874 §6]

456.202 Short-term bond anticipation notes. (1) An authority shall have the power to borrow money for the purposes for which its bonds are to be issued in anticipation of the receipt of proceeds of the sale of such bonds and within the authorized maximum of such bond issue.

(2) Bond anticipation notes shall be issued for all moneys borrowed under the provisions of this section. Such notes may be issued for a period not exceeding one year and may be renewed from time to time for periods not exceeding one year, but each such note, including renewals, shall mature and be paid not later than five years after the date on which the original note was issued. Such notes shall be authorized by resolution of the authority, adopted by a majority of the commissioners, and shall be in such denomination or denominations, shall bear interest at such rate or rates, shall be

in such form, and shall be executed in such manner, all as a majority of the commissioners shall prescribe. Such notes may be sold at public or private sale in the manner and at such price or prices or for such other consideration, including real or personal property, as the authority shall determine, provided that if such notes be renewal notes, they may be exchanged for notes then outstanding on such terms as the authority shall determine. [1977 c 342 §2]

456.205 Enforcing rights of obligee of an authority. An obligee of an authority, in addition to all other rights conferred on the obligee, subject only to any contractual restrictions binding upon the obligee, may:

(1) By mandamus or other action or proceeding for legal or equitable remedies, compel the authority and its commissioners, officers, agents or employees to perform each and every term, provision and covenant contained in any contract of the authority with or for the benefit of such obligee, and require the carrying out of all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by the Housing Authorities Law.

(2) By action or proceeding, enjoin any acts or things which may be unlawful, or the violation of any rights of the obligee. [Amended by 1979 c 284 §149]

456.210 Power of authority to confer additional rights upon obligee. An authority, by its resolution, trust indenture, mortgage, lease or other contract, may confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

(1) To cause possession of any housing project or any part thereof to be surrendered to an obligee.

(2) To obtain the appointment of a receiver of any housing project of the authority or any part thereof and of the rents and profits therefrom. If a receiver is appointed, the receiver may enter and take possession of the housing project or any part thereof and operate and maintain it and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom, and shall keep such moneys in separate accounts and apply them in accordance with the obligations of the authority as the court directs.

(3) To require the authority and its commissioners to account as if it and they were the trustees of an express trust.

456.215 Financial aid and cooperation of Federal Government. (1) An authority may:

(a) Borrow money or accept grants or other financial assistance from the Federal Government for or in aid of any housing project within its area of operation.

(b) Take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government.

(c) Comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable for the purposes of this subsection.

(2) It is the purpose and intent of the Housing Authorities Law to authorize every authority to do all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any housing project by such authority.

456.220 Exemption of property from process or judgment lien. All real property of an authority is exempt from levy and sale by virtue of an execution. No execution or other judicial process shall issue against such property nor shall any judgment against an authority be a charge or lien upon its real property. However, this section does not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees or revenues.

456.225 Exemption of property of authority from taxation; payments in lieu of taxes. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the state or any political subdivision thereof. In lieu of such taxes or special assessments, an authority may agree to make payments to the city, county or any such political subdivision for improvements, services and facilities furnished by such city, county or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the estimated cost to the city, county or political subdivision of the improvements, services or facilities to be so furnished.

456.230 Bonds and income therefrom exempt from taxes. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities. The bonds, together

with interest thereon and income therefrom, are exempt from taxes.

456.233 Transfer of housing authority from governing body to separate board. If, pursuant to this chapter, ORS chapter 455 and ORS 446.515 to 446.547, the governing body in a city or a county has declared, by resolution, that the governing body itself shall exercise the powers of a housing authority under this chapter, ORS chapter 455 and ORS 446.515 to 446.547, the governing body may thereafter, by resolution, elect to transfer such powers and the authority to act as the housing authority to any other body which may be designated by this chapter, ORS chapter 455 and ORS 446.515 to 446.547 to exercise such powers. The governing body of the city or county may, by resolution, transfer the powers and authority to act as the housing authority to itself. All duties and obligations of the governing body as the housing authority of the municipality shall thereafter be assumed and performed by the body to which such powers and authority are transferred. [1969 c 630 §1; 1975 c 322 §2; 1979 c.621 §17]

456.235 Dissolution of housing authorities. (1) A housing authority may be dissolved upon a majority vote of its commissioners at any regular or special meeting of the commission whereof all the members of the commission have been notified. Except with the consent of the obligees of the housing authority to dissolution, no authority having outstanding bonds or indebtedness shall be dissolved unless the assets of the authority are sufficient to pay such bonds and indebtedness. A copy of the order or resolution of dissolution shall be filed with the clerk of the city or the county, as the case may be.

(2) Upon dissolution of an authority, the property and assets thereof not required for the liquidation of indebtedness of the authority shall vest in or be paid over to the city or the county for which the authority was created or, where a regional authority is dissolved, be paid over to the cities and counties in the authority in proportion to the population within each cooperating city and county according to the most recent determination under ORS 190.510 to 190.610; provided, that if the housing project be located within an incorporated city, then such property and assets shall be paid over and delivered to such city, even though the authority may have been created by a county. Any moneys so received by the clerk shall be credited to the general fund of the city or the county, as the case may be.

(3) After voting for dissolution the authority shall be dissolved for all purposes, excepting, there shall be allowed a period of

not to exceed three years after said vote for the liquidation of indebtedness and final settlement of its affairs. [1953 c 716 §2, 1973 c.672 §16]

COOPERATIVE HOUSING PROJECTS

456.305 Definitions for ORS 456.305 to 456.325. As used in ORS 456.305 to 456.325, unless the context requires otherwise:

(1) "Governing body" means the common council, county court, board of county commissioners, board or other body having charge of the fiscal affairs of the state public body.

(2) "Housing project" means any work or undertaking of a housing authority pursuant to the Housing Authorities Law or any similar work or undertaking of the Federal Government.

(3) "State public body" means any city, town, county, municipality, commission, district, authority, other subdivision or public body of the state.

456.310 Purpose; powers additional. (1) It hereby is found and declared:

(a) That the assistance provided in ORS 456.315 and 456.320 for the remedying of the conditions set forth in the Housing Authorities Law is a matter of state concern and constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given.

(b) That it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or project.

(c) That ORS 456.305 to 456.325 are necessary in the public interest.

(2) The powers conferred by ORS 456.305 to 456.325 are in addition and supplemental to the powers conferred by any other law.

456.315 Powers of state public bodies in aiding or cooperating on housing projects. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its property to a housing authority or the Federal Government.

(2) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other

works which it may otherwise undertake, to be furnished adjacent to or in connection with housing projects.

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it may otherwise undertake.

(4) Plan or replan, zone or rezone any part of such state public body and make exceptions from building regulations and ordinances. Any city or town also may change its map.

(5) Enter into agreements with a housing authority or the Federal Government respecting action to be taken by such state public body pursuant to any of the powers granted by ORS 456.305 to 456.325.

(6) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects.

(7) Purchase or legally invest in any of the bonds of a housing authority and exercise all the rights of any holder of such bonds.

(8) With respect to any housing project which a housing authority has acquired or taken over from the Federal Government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no state public body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(9) In connection with any public improvements made by a state public body in exercising the powers granted in this section, a state public body may incur the entire expense thereof.

456.320 Donations and loans to housing authority. (1) When any housing authority becomes authorized to transact business and exercise its powers, the governing body of the city, town or county, as the case may be, shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of the housing authority during the first year thereafter, and shall appropriate such amount to the authority out of any moneys in such city, town or county treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the authority as a donation.

(2) Any city, town, municipality or county located in whole or in part within the area of operation of a housing authority may lend or donate money to the authority or

agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all loans made to it. The authority may enter into agreement with the donor setting forth the purposes for which the donation may be used and the conditions under which such donation must be restored to the donor. [Amended by 1977 c.341 §1]

456.325 Resolution to exercise powers. The exercise by a state public body of the powers granted in ORS 456.305 to 456.325 may be authorized by resolution of the governing body of such state public body adopted by a majority of the members of its governing body present at a meeting of the governing body. This resolution may be adopted at the meeting at which it is introduced. Such a resolution shall take effect immediately and need not be laid over or published or posted.

456.355 Definitions for ORS 456.355 to 456.370. As used in ORS 456.355 to 456.370, unless the context requires otherwise:

(1) "Governing body" means the governing body of any city or county.

(2) "Housing project" means any work or undertaking of a nonprofit sponsor, limited-dividend housing corporation or a for-profit developer meeting the requirements of subsection (5) of this section for the purpose of operating, rehabilitating or constructing decent, safe and sanitary housing for families and individuals who cannot obtain such shelter in the open market for 25 percent of the gross family income.

(3) "Nonprofit housing sponsor" means any corporation not for profit organized under the provisions of ORS chapter 61 for the purpose of undertaking, constructing or operating a housing project, or authorized by its charter to undertake, construct or operate a housing project.

(4) "Limited-dividend housing corporation" means any corporation that qualifies as such under the Federal Housing and Urban Development Act of 1968.

(5) "For-profit developer" means a developer who agrees to rent housing units at below-market rent over a substantial period of time to households with income limits stipulated by the city or county.

(a) Proposals for such projects shall be solicited by appropriate direct and indirect invitation.

(b) Proposals received shall be measured against stated criteria, and reasons for the choices made shall be recorded.

(c) The financial stability of the developer shall be established to the satisfaction of the city or county.

(d) The Housing Agency shall review the documentation for paragraphs (a), (b) and (c) of this subsection for procedural compliance. The agency may comment on the issue of benefits received against the benefits conferred, but it is not the intent of the legislature that the agency shall substitute its judgment for that of the city or county in determining whether these benefits are in balance. [1969 c.185 §2, 1975 c.138 §1]

456.360 Purpose; powers additional. (1) It hereby is found and declared:

(a) That the assistance provided by ORS 456.365 for the remedying of the conditions set forth in the Housing Authorities Law is a matter of state concern and constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given.

(b) That it is a proper public purpose for any city or county to aid any housing project as defined in ORS 456.355 (2) operating within its boundaries or jurisdiction, as the city or county derives immediate benefits and advantages from such an authority or project.

(c) That ORS 456.355 to 456.370 is necessary in the public interest.

(2) The powers conferred by ORS 456.355 to 456.370 are in addition and supplemental to the powers conferred by any other law. [1969 c.185 §3; 1975 c.138 §2]

456.365 Powers of city or county in aiding or cooperating on housing projects. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects as defined in ORS 456.355 and located within the area in which it is authorized to act, any city or county may upon such terms, with or without consideration, as it may determine:

(1) Dedicate, sell, convey or lease any of its property.

(2) Cause park, playground, recreational, community, educational, water, sewer or drainage facilities, or any other works which it may otherwise undertake, to be furnished adjacent to or in connection with housing projects.

(3) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan public streets, roads, roadways, alleys, sidewalks or other places which it may otherwise undertake.

(4) Plan or replan, zone or rezone any part of the area within such city or county and make exceptions from building regulations and ordinances. Any city also may change its map.

(5) Enter into agreements respecting action to be taken by such city or county

pursuant to any of the powers granted by ORS 456.355 to 456.370.

(6) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects.

(7) In connection with any public improvements made by it in exercising the powers granted by this section, incur the entire expense thereof. [1969 c.185 §4; 1975 c.138 §3]

456.370 Exercise of powers; authorization by ordinance. The exercise by a city or county of the powers granted by ORS 456.355 to 456.370 may be authorized by ordinance of the governing body of the city or county adopted by a majority of the members of its governing body present at a meeting of the governing body. Persons particularly interested, and the general public, shall be given an opportunity to be heard at that meeting, and notice to the public of the time and place of said meeting and of the subject of the ordinance proposed for enactment shall be published in the same manner as required prior to final enactment of a zoning ordinance. The ordinance may be adopted or amended and adopted at such meeting, and if adopted shall take effect immediately and need not be laid over or published or posted. [1969 c.185 §5]

DEFENSE HOUSING PROJECTS

456.405 Definitions for ORS 456.405 to 456.455. As used in ORS 456.405 to 456.455, unless the context requires otherwise:

(1) "Persons engaged in national defense activities" includes:

(a) Enlisted men in the military and naval services of the United States and employees of the Defense Department assigned to duty at military or naval reservations, posts or bases.

(b) Workers engaged or to be engaged in industries connected with and essential to the national defense program.

(c) The families of the persons listed in this subsection who are living with them.

(2) "Persons of low income" means persons or families who lack the amount of income which is necessary, as determined by the housing authority undertaking the housing project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings without overcrowding.

(3) "Development" means all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project, including the negotiations or award of contracts therefor, and includes the acquisition

of any project, in whole or in part, from the Federal Government.

(4) "Administration" means all undertakings necessary for management, operation or maintenance, in connection with any project, and includes the leasing of any project, in whole or in part, from the Federal Government.

(5) The development of a project shall be deemed to be "initiated" if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the housing authority, or has contracted with the Federal Government with respect to the exercise of powers under ORS 456.405 to 456.455 in the development of such project of the Federal Government for which an allocation of funds has been made prior to December 31, 1947.

456.410 Declaration of necessity; purpose; powers additional. (1) It hereby is found and declared:

(a) That the national defense program involves large increases in the military forces and personnel in this state, a great increase in the number of workers in already established manufacturing centers and the bringing of a large number of workers and their families to new centers of defense industries in the state.

(b) That there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this state which impedes the national defense program.

(c) That it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons to enable the rapid expansion of national defense activities in this state and to avoid a large labor turnover in defense industries which would seriously hamper their production.

(d) That ORS 456.405 to 456.455 are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities which otherwise would not be provided at this time and that such provisions are for the public use and purpose of facilitating the national defense program in this state.

(e) That it is the purpose of ORS 456.405 to 456.455 to authorize housing authorities to do all things necessary or desirable to secure the financial aid of the Federal Government, or to cooperate with or act as agent of the Federal Government, in the expeditious development and the administration of projects to assure the availability when needed of safe and sanitary dwellings for persons engaged in national defense activities.

(2) The powers conferred by ORS 456.405 to 456.455 are in addition and supplemental to the powers conferred by any other law, and nothing contained in ORS 456.405 to 456.455 shall be construed as limiting any other powers of a housing authority.

456.415 Development and administration of projects; rights and immunities of housing authority. (1) Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof. However, no housing authority shall initiate the development of any such project pursuant to ORS 456.405 to 456.455 after December 31, 1947.

(2) In the ownership, development or administration of housing projects, a housing authority shall have all the rights, powers, privileges and immunities that it has under any law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all laws applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities under ORS 456.405 to 456.455.

(3) Housing projects developed or administered under ORS 456.405 to 456.455 constitute "housing projects" under the Housing Authorities Law, as that term is used therein.

456.420 Determination of "national defense period." Reference in ORS 456.405 to 456.455 to the term "national defense period" means that period during which a housing authority finds that, within its area of operation as defined in ORS 456.060, there is an acute shortage of safe and sanitary dwellings which impedes the national defense program in this state, and that the necessary safe and sanitary dwellings would not be provided when needed for persons engaged in national defense activities, except under ORS 456.405 to 456.455. The finding of the housing authority shall be conclusive in any suit, action or proceeding.

456.425 Defense projects exempt from Housing Authorities Law during national defense period. During the national defense period, any project developed or administered by the housing authority for which the national defense period exists or by any housing authority cooperating with it in the area

of operation pursuant to ORS 456.405 to 456.455, with the financial aid of the Federal Government or as agent for the Federal Government as provided in ORS 456.440, shall not be subject to the limitations of ORS 456.155 (2) and 456.160.

456.430 Payments for services and facilities. During the national defense period, a housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with such project.

456.435 Administration after national defense period. After the national defense period, any projects owned and administered by a housing authority under ORS 456.405 to 456.455 shall be administered for the purposes and in accordance with the Housing Authorities Law.

456.440 Cooperation with or agency for Federal Government; sale of housing projects. (1) A housing authority may cooperate with, or act as agent for, the Federal Government in the development or administration of projects by the Federal Government to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and may undertake the development or administration of any such project for the Federal Government.

(2) In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities, a housing authority may sell, in whole or in part, to the Federal Government any housing project developed for persons of low income but not yet occupied by such persons. This sale shall be at such price and upon such terms as the housing authority prescribes and shall include provision for the satisfaction of all debts and liabilities of the housing authority relating to such project.

456.445 Scope of authorization for development and administration of defense housing projects. (1) ORS 456.405 to 456.455 constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and for a housing authority to cooperate with, or act as agent for, the Federal Government in the development or administration of similar projects by the Federal Government.

(2) In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions or requirements of other laws, except those relating to land ac-

quisition, prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income or undertakings or projects of municipal or public corporations or political subdivisions or agencies of the state.

(3) A housing authority may do any and all things necessary or desirable to cooperate with, or act as agent for, the Federal Government, or to secure financial aid in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and to effectuate the purposes in ORS 456.410.

456.450 Cooperation of state public body with state and federal agencies. Any state public body, as defined in ORS 456.305, shall have the same rights and powers to cooperate with housing authorities, or with the Federal Government, with respect to the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities that such state public body has pursuant to ORS 456.305 to 456.325.

456.455 Bonds or other obligations of housing authority. Bonds or other obligations issued by a housing authority for a project developed or administered pursuant to ORS 456.405 to 456.455 shall be legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers as bonds or other obligations issued pursuant to the Housing Authorities Law. [Amended by 1967 c 451 §22]

456.470 [1975 c 433 §1; repealed by 1975 c.433 §11]

456.472 [1975 c 433 §2; repealed by 1975 c 433 §11]

456.475 [1975 c 433 §3; repealed by 1975 c.433 §11]

456.477 [1975 c 433 §4, repealed by 1975 c.433 §11]

456.480 [1975 c 433 §5, repealed by 1975 c.433 §11]

456.482 [1975 c.433 §6; repealed by 1975 c.433 §11]

456.485 [1975 c.433 §7; repealed by 1975 c.433 §11]

456.487 [1975 c 433 §8, repealed by 1975 c 433 §11]

456.490 [1975 c.433 §9, repealed by 1975 c.433 §11]

456.492 [1975 c.433 §10; repealed by 1975 c.433 §11]

456.495 [1975 c 433 §11; repealed by 1975 c.433 §11]

VETERANS' LOCAL HOUSING

456.505 Veterans' housing by local agencies. Any lease, agreement or contract under chapter 420, Oregon Laws 1947, by and between any local agency or agencies and any authority or agency, federal or otherwise, providing housing facilities remains effective according to the instrument between the agencies concerned, notwithstanding the limitations of chapter 143, Oregon Laws 1949.

HOUSING AGENCY

(Elderly and Disabled Housing Bonds)

456.515 Definitions for ORS 456.515 to 456.547. As used in ORS 456.515 to 456.547 unless the context requires otherwise:

- (1) "Agency" means the Housing Agency.
- (2) "Construction" includes, but is not limited to, new construction or moderate or substantial rehabilitation of existing structures or facilities.
- (3) "Elderly household" means a household whose head is over the age of 58, residing in this state, who cannot obtain in the open market decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of the household.

(4)(a) "Multifamily housing" means a structure or facility which provides more than one living unit, and may provide spaces for common use by the occupants in social and recreational activities:

(A) For the elderly, including but not limited to individual living units within such structures, mobile home and manufactured dwelling parks and residential facilities licensed under ORS 443.400 to 443.455 and other congregate care facilities with or without domiciliary care.

(B) For disabled persons, including only residential facilities licensed under ORS 443.400 to 443.455 and other congregate care facilities with or without domiciliary care.

(b) "Multifamily housing" does not include nursing homes, hospitals, places primarily engaged in recreational activities and single-family, detached dwellings, except manufactured dwellings situated in a mobile home and manufactured dwelling park.

(5) "Target population" means:

- (a) Elderly households; or
- (b) Disabled persons whose disability requires special housing provisions to accommodate the disability and whose disability arises from:
 - (A) Mental retardation or other developmental disability;
 - (B) Severe and persistent mental or emotional disturbance; or
 - (C) A physical disability substantially limiting ambulation. [1977 c.485 §1; 1981 c.504 §1; 1981 c.695 §2; 1987 c.414 §14; 1989 c.224 §120]

(A) Mental retardation or other developmental disability;

(B) Severe and persistent mental or emotional disturbance; or

(C) A physical disability substantially limiting ambulation. [1977 c.485 §1; 1981 c.504 §1; 1981 c.695 §2; 1987 c.414 §14; 1989 c.224 §120]

456.519 General obligation bonds authorized. In order to provide funds for the purposes specified in Article XI-I(2) of the Oregon Constitution, bonds may be issued in accordance with the provisions of ORS 286.031 to 286.061. [1977 c.485 §2; 1981 c.660 §38]

456.524 [1977 c.485 §3; 1979 c.327 §18; repealed by 1981 c.660 §18]

456.527 [1977 c.485 §4; 1979 c.327 §19; repealed by 1981 c.660 §18]

456.530 Willingness to make residential loans factor in selecting depositories. Notwithstanding ORS 293.721 and 293.726 and subject to the provisions of any agreement with holders of bonds issued pursuant to ORS 456.519 or 456.524 (1979 Replacement Part), the agency may consider the willingness or commitment of a lending institution as defined in ORS 456.615 to make loans for residential housing as a factor in selecting depositories and otherwise investing funds held under ORS 456.515 to 456.547 in or through such lending institutions. [1981 c.504 §31]

456.531 [1977 c.485 §5; repealed by 1981 c.660 §18]

456.535 Elderly and Disabled Housing Fund. The money realized from the sale of each issue of bonds shall be credited to a special fund in the State Treasury, separate and distinct from the General Fund, to be designated the Elderly and Disabled Housing Fund; which fund is hereby appropriated for the purpose of carrying out the provisions of ORS 456.515 to 456.547. It shall not be used for any other purpose, except that this money, with the approval of the State Treasurer, may be invested as provided by ORS 293.701 to 293.776 and the earnings from the investments inure to the Elderly and Disabled Housing Sinking Fund. [1977 c.485 §6, 1981 c.695 §3]

456.539 Use of bond proceeds limited to multifamily housing for elderly and disabled; administration by agency. (1) The agency shall be the agency for the State of Oregon for the administration of the Elderly and Disabled Housing Fund. Except as otherwise provided in ORS 456.515 to 456.547, the provisions of ORS 456.550 to 456.582, 456.615 to 456.640 and 456.690 to 456.720 are applicable to the administration of the Elderly and Disabled Housing Fund.

(2) The agency is authorized to use the Elderly and Disabled Housing Fund to advance funds, by contract, grant, loan or otherwise, as provided by Article XI-I(2) of the Oregon Constitution.

(3) In carrying out the provisions specified in Article XI-I(2) of the Oregon Constitution, the agency shall, with the concurrence of the State Housing Council, adopt criteria for approval of projects proposed by qualified housing sponsors to finance multifamily housing for the target population. The criteria shall:

(a) Assure that health, mental health and other supportive services, as may be necessary to maintain elderly and disabled house-

holds living in the housing are available to the occupants onsite or in the community;

(b) Give priority to members of the target populations; and

(c) Allow occupancy of such persons as the agency determines necessary and convenient to maintain the housing and provide services for elderly and disabled households.

(4) The agency shall:

(a) Adopt criteria, including maximum income limitations not to exceed median family income, for approval of applications for financing the purchase by elderly households of ownership interests within a multifamily structure or facility. The criteria must include a requirement that the applicants obtain loan cancellation life insurance.

(b) Provide means for allocating funds to finance multifamily housing units for the target population and to establish limitations on the interest and fees to be charged on loans made by the agency.

(c) Adopt rules necessary for efficient administration of the Elderly and Disabled Housing Fund.

(d) Adopt rules to assure that each of the target populations has access to a reasonable portion of the bond authority under ORS 456.515 to 456.547, and that a reasonable portion of the funds for elderly households is made available to finance the purchase by elderly households of ownership interests within multifamily housing structures or facilities.

(5) Loans made by the agency under this section for the interim construction financing of multifamily housing shall be insured by a person or governmental agency not otherwise a party to the loan transactions. [1977 c.485 §7; 1979 c.327 §20; 1981 c.504 §4, 1981 c.695 §4]

456.541 Council duties toward disabled persons. In addition to the other duties and functions of the State Housing Council, the council shall consult generally with the administrators of the appropriate divisions within the Department of Human Resources and such other persons as the council may consider appropriate concerning project applications for housing for disabled households. The council shall seek comment on such project applications concerning:

(1) The need for and design of the project generally, considering the proposed location of the housing;

(2) The means proposed for screening eligibility for occupancy to assure that priority will be given to members of the target populations of disabled persons; and

(3) The adequacy of the provisions for assuring the availability of health, mental

health and other supportive services necessary to maintain disabled households in the housing. [1981 c.695 §6]

456.543 Elderly and Disabled Housing Sinking Fund. (1) The agency shall maintain, with the State Treasurer, an Elderly and Disabled Housing Sinking Fund, separate and distinct from the General Fund. The Elderly and Disabled Housing Sinking Fund shall provide for the payment of the principal and interest upon bonds issued under authority of Article XI-I(2), Oregon Constitution, and ORS 456.515 to 456.547. Moneys of the sinking fund are hereby appropriated for such purpose. With the approval of the agency, the moneys in the Elderly and Disabled Housing Sinking Fund may be invested as provided by ORS 293.701 to 293.776, and earnings from the investment shall be credited to the Elderly and Disabled Housing Sinking Fund.

(2) The Elderly and Disabled Housing Sinking Fund shall consist of all moneys received from contract or loan proceeds; bond reserves; other funds available for these purposes; and, if necessary, state ad valorem taxes provided by Article XI-I(2), Oregon Constitution, and by ORS 456.515 to 456.547.

(3) The Elderly and Disabled Housing Sinking Fund shall not be used for any purpose other than that for which the fund was created provided, however, that amounts on deposit in the fund may be applied to the payment of operating and administrative expenses of the agency allocable to its elderly and disabled housing program under ORS 456.515 to 456.547. Should a balance remain therein after the purposes for which the fund was created have been fulfilled or after a reserve sufficient to meet all existing obligations and liabilities of the fund has been set aside, the surplus remaining may be transferred to the Elderly and Disabled Housing Fund at the direction of the agency. [1977 c.485 §8, 1979 c.327 §21; 1981 c.695 §7]

456.547 Assistance, grants and gifts to agency for housing purposes. The agency may accept assistance, grants and gifts, in the form of money, land, services or any other thing of value from the United States or any of its agencies, or from other persons, for any of the purposes contemplated by Article XI-I(2) of the Oregon Constitution and by ORS 456.515 to 456.547. Unless enjoined by the terms and conditions of any such gift or grant, the agency may convert the same or any of them into money through sale or other disposal thereof. [1977 c.485 §9]

(Administration)

456.550 Policy. (1) There exists in this state a seriously inadequate supply of and a

pressing need for safe and sanitary dwelling accommodations within the financial means of persons and families of lower income, including but not limited to persons and families displaced by the clearing of slums and blighted areas or by other public programs;

(2) Private lending institutions have been and will continue to be unable to provide necessary financial support for lower income housing and the resulting shortage of financing has been in whole or in part responsible for the shortage of lower income housing;

(3) It is a valid public purpose to provide for the construction, rehabilitation, purchase, leasing and refinancing of housing for such persons and families who would otherwise be unable to obtain adequate dwelling accommodations which they could afford and to aid in the acquisition of land for present or future developments including such housing accommodations;

(4) It is further found that the authority and powers conferred by ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 upon the agency and the administrator constitute a necessary public program and serve a valid public purpose;

(5) To stimulate and increase the supply of housing for persons and families of lower income it is necessary that a central source of housing information, planning, educational services and technical assistance and a revolving fund be established. The Housing Agency shall be that central source in this state; and

(6) It is the policy of this state to increase the amount of and improve the condition of low and moderate income housing by investing in developing local capacity to build, rehabilitate and manage housing. A primary vehicle for building such capacity is the formation and expansion of community development corporations. [1971 c.505 §1, 1973 c.828 §1; 1973 c.832 §3; 1975 c.154 §7; 1989 c.1030 §5]

456.553 Housing agency; administrator; duties. (1) The Housing Agency is established. The State Housing Council shall appoint a person to serve as the Administrator of the Housing Agency. The administrator shall hold the office of the administrator at the pleasure of the council and the salary of the administrator shall be fixed by the council unless otherwise provided by law.

(2) In addition to salary, the administrator shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employees, for actual and necessary expenses incurred by the administrator in the performance of official duties.

(3) The administrator shall, subject to the applicable provisions of the State Personnel Relations Law, appoint all subordinate officers and employees of the agency and prescribe their duties and fix their compensation.

(4) The administrator shall report regularly to the council in order to keep the council informed on progress made by the agency in carrying out the agency's responsibilities under this chapter and ORS 446.515 to 446.547. [1989 c.307 §1 (enacted in lieu of 456.554)]

456.554 [Formerly 456.560; 1987 c.414 §15; repealed by 1989 c.307 §2 (456.553 enacted in lieu of 456.554)]

456.559 Powers and duties of agency.

(1) Subject to the policies adopted by the State Housing Council, the agency shall:

(a) Maintain current housing data and information concerning available programs, status of funding, programs planned or undertaken which might conflict with, overlap, duplicate or supersede other planned or existing programs and call these to the attention of appropriate state agencies, governmental bodies and public or private housing sponsors.

(b) Provide to appropriate state agencies, governmental bodies and public or private housing sponsors such advisory and educational services as will assist them in the development of housing plans and projects.

(c) Make noninterest bearing advances, in accordance with ORS 456.710 and the policies of the agency to qualified nonprofit sponsors for development costs of housing projects until mortgage funds are released to repay the advances as provided in ORS 456.710.

(d) Advise and assist appropriate state agencies, governmental bodies and public or private housing sponsors, cities and counties, in all programs and activities which are designed or might tend to fulfill the purposes of ORS 456.550 to 456.720.

(e) Encourage and assist in the planning, development, construction, rehabilitation and conservation of dwelling units for persons and families of lower income.

(f) Be the central state agency to apply for, receive and distribute, on behalf of appropriate state agencies, governmental bodies and public or private housing sponsors in the state, grants, gifts, contributions, loans, credits or assistance from the Federal Government or any other source for housing programs except when the donor, grantor, or lender of such funds specifically directs some other agency to administer them. Moneys received under this section shall be deposited with the State Treasurer in an account separate and distinct from the General Fund.

Interest earned by the account shall be credited to the account.

(g) For the purposes of acquiring moneys, credits or other assistance from any agency or instrumentality of the United States or from any public corporation chartered by the United States, comply with any applicable agreements or restrictions for the receipt of such assistance and become a member of any such association or public corporation chartered by the United States.

(h) Give preference to projects involving the rehabilitation and conservation of existing housing units wherever economically feasible.

(i) Assist individuals, appropriate state agencies, governmental bodies and public or private housing sponsors through a program which provides housing information, planning, educational services and technical assistance.

(j) Comply with the requirements of ORS 443.225 in assisting in the development of any housing for residential care, training or treatment for mentally retarded, developmentally disabled, mentally or emotionally disturbed persons. If the Department of Human Resources has not made the determination required in ORS 443.225 (1), the Housing Agency shall perform its own determination.

(2) Except as otherwise provided in ORS 456.625 (7), the agency shall not itself develop, construct, rehabilitate or conserve housing units; and neither the agency nor any housing sponsor, including but not limited to any association, corporation, cooperative housing authority or urban renewal agency organized to provide housing and other facilities pursuant to ORS 456.550, 456.574 to 456.625 and 456.630 to 456.720 and this section, may own, acquire, construct, purchase, lease, operate or maintain utility facilities, including facilities for the generation of electricity, for the distribution of gas and electricity, and for the conveyance of telephone and telegraph messages.

(3) In accordance with the provisions of this section, the Housing Agency shall establish state-wide priorities for housing programs. State agencies shall coordinate their housing programs through the Housing Agency. All state agencies intending to apply for federal funds for use in planning, developing or managing housing, or rendering assistance to governmental bodies or sponsors or individuals involved therein shall submit a description of the proposed activity to the Housing Agency for review not less than 30 days prior to the intended date of submission of the application to the federal agency. The Housing Agency shall determine whether the

proposal would result in a program that would overlap, duplicate or conflict with any other housing program in the state. If the agency finds overlapping or duplication or conflict, it shall recommend modifications in the application. The Executive Department shall consider these recommendations in making its decision to approve or disapprove the application. The agency shall complete its review and forward its recommendations within 15 working days after receipt of the notification. Failure of the agency to complete the review within that time shall constitute approval of the application by the agency. [Formerly 456.570; 1987 c.158 §86a; 1987 c.414 §15a, 1987 c.567 §1; 1989 c.307 §3, 1989 c.966 §50]

456.560 [1971 c.505 §2, renumbered 456.554]

456.563 [Formerly 456.580, repealed by 1989 c.307 §8]

456.567 State Housing Council; appointment; terms; compensation. (1) The State Housing Council is established. The council shall consist of seven members appointed by the Governor subject to confirmation by the Senate under ORS 171.562 and 171.565.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to be immediately effective for the unexpired term.

(3) The Governor shall appoint the chairman of the council.

(4) The administrator of the agency shall act as secretary to the council and official custodian of its records.

(5) The members of the council are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 456.590; 1987 c.414 §16; 1989 c.307 §4]

456.570 [1971 c.505 §§4, 5; 1973 c.828 §2, 1973 c.832 §4, 1979 c.327 §28, renumbered 456.559]

456.571 Powers and duties of council.

(1) The State Housing Council shall develop policies to aid in stimulating and increasing the supply of housing for persons and families of lower income.

(2) The council shall review each loan or grant in excess of \$100,000 proposed to be made by the administrator under the agency's programs and the council may approve or disapprove any loan or grant. The administrator shall submit each loan or grant in excess of \$100,000 the agency proposes to make to the council for review and shall not make any loan or grant in excess of \$100,000 which has not been approved by the council. Council review of loan or grant proposals

shall be held at a public hearing of the council. Notice of a loan or grant review shall be provided the loan or grant applicant not less than five days before the review hearing. The loan or grant review, naming the subject of and parties to the loan or grant, shall be included in the published notice required by ORS 192.640.

(3) The council shall make special effort to respond to both private and public actions which may raise the cost of the housing supply in the open market, as the open market is the source of housing for the preponderance of lower income households.

(4) The council shall be responsible for studying and commenting upon, and advising, the Governor, Legislative Assembly, other state agencies and local governments concerning local, state and federal legislation or rules that affect the cost and supply of housing, both before and after they are enacted. Such legislation or rules include but are not limited to those which would:

(a) Provide financing for the construction or rehabilitation of housing;

(b) Subsidize new or existing housing costs for lower income households by income support, tax credit, or support service methods;

(c) Regulate the division of land;

(d) Regulate the use of land;

(e) Regulate building construction standards;

(f) Regulate fees for inspection services, permits, or professional services related to housing;

(g) Encourage alternatives that increase housing choices;

(h) Create or avert overlapping jurisdictional functions and their concomitant increased costs which are reflected in housing prices;

(i) Create or avoid conflicting state and federal regulations which deprive lower income households of assistance; and

(j) Help or hinder compliance with the housing goals established by the Land Conservation and Development Commission under ORS 197.240.

(5) The council may initiate legal proceedings in its own name to further its purposes under this section.

(6) The council shall exercise its responsibilities and powers in a manner which expedites the acquisition, construction, improvement or rehabilitation of housing.

(7) The council shall adopt the rules necessary for the administration and enforcement of ORS 456.550 to 456.720 and

establish criteria for granting of benefits conferred by ORS 456.550 to 456.720. [Formerly 456.600, 1989 c.307 §5]

Note: Sections 1 to 3, chapter 886, Oregon Laws 1989, provide.

Sec. 1. The Housing Agency under the direction of the State Housing Council shall prepare, collect, provide or cause to be prepared, collected or provided an inventory of farm labor housing in this state which shall include, but not be limited to, the following:

(1) A description of the condition of farm labor housing in this state;

(2) As accurate a count as possible of the number of farm labor housing units that exist and their location;

(3) As accurate a count as possible of the shortfall between farm laborers and their dependents expected to need either temporary or permanent housing in this state, and the number of farm labor housing units currently available; and

(4) A breakdown of the types of units available and the condition of each. For example

(a) Owner-occupied;

(b) Government-subsidized,

(c) Organized and administered by nonprofit organizations;

(d) Operated by farmers or farm labor contractors;

(e) Temporary; or

(f) Permanent. [1989 c.886 §1]

Sec. 2. The inventory described in section 1 of this Act shall be delivered to the State Housing Council, the President of the Senate and the Speaker of the House of Representatives of the Oregon Legislative Assembly no later than September 30, 1990 [1989 c 886 §2]

Sec. 3. The Housing Agency under the direction of the State Housing Council may collect information for the inventory described in sections 1 and 2 of this Act from:

(1) Other state agencies with access to pertinent data;

(2) Other governmental agencies, including federal agencies, that deal with farm labor housing;

(3) Nonprofit and other organizations that serve the farm labor population;

(4) Inquiries of farm laborers as to their housing needs, and

(5) Any other source the Housing Agency or State Housing Council determines will help provide the most accurate picture of existing farm labor housing in this state. [1989 c 886 §3]

456.574 Housing Agency Revolving Account; use of moneys; appropriation.

(1) There is created in the General Fund of the State Treasury the Housing Agency Revolving Account. All moneys deposited in the account are continuously appropriated for the purposes of ORS 456.550 to 456.720, subject to limitations otherwise prescribed by law.

(2) There hereby is appropriated to the Housing Agency out of the General Fund in the State Treasury the sum of \$100,000, which sum shall be credited to the Housing Agency Revolving Account. Such funds hereby are continuously appropriated for:

(a) The making of advances under ORS 456.559 (1)(c) or 456.710; and

(b) The use by the agency in the payment of expenses incurred by the agency in carrying out ORS 456.615 to 456.625 and 456.630 to 456.720; however, any such funds expended by the agency under this paragraph shall be repaid by the agency into the revolving account from the fees and charges collected under ORS 456.625 (3) and from any other moneys available for such repayment in accordance with ORS 456.615 to 456.625 and 456.630 to 456.720. [Formerly 456.610; 1987 c 414 §17]

456.578 Agency use of funds. Subject to other applicable laws and agreements entered into with bondholders, amounts received by, or appropriated to, the agency may be applied to funds and accounts as the administrator determines necessary or appropriate for the payment of expenses of programs administered by the agency and to provide reserves against losses and security for bonds. All amounts deposited in the funds or accounts administered by the agency under ORS 456.515 to 456.547 and 456.550 to 456.720, are continuously appropriated for the purposes of ORS 456.515 to 456.547 and 456.550 to 456.720. [1979 c.327 §25]

456.579 Mobile Home Parks Purchase Account, restrictions; other funds. (1) There is established in the General Fund an account to be known as the Mobile Home Parks Purchase Account. Except as otherwise provided by law, all moneys appropriated or credited to the Mobile Home Parks Purchase Account are appropriated continuously for and shall be used by the Administrator of the Housing Agency for the purpose of carrying out the duties and responsibilities imposed upon the agency under ORS 90.105, 90.500, 90.630, 90.760, 90.800 to 90.840, 308.905, 446.003, 456.579 and 456.581. Interest earned on the account shall be credited to the account.

(2) Except for loans provided in ORS 90.840, the account described in subsection (1) of this section shall not be connected to or commingled in any way with the funds described in ORS 456.720.

(3) For the purpose of carrying out the provisions of ORS 90.105, 90.500, 90.630, 90.760, 90.800 to 90.840, 308.905, 446.003, 456.579 and 456.581, the Housing Agency may seek funds from sources other than that described in ORS 308.905 (1). Such funds shall be credited to the Mobile Home Parks Purchase Account. [1989 c.919 §4]

Note: 456.579 and 456.581 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.580 [1971 c.505 §3; 1979 c.327 §1; renumbered 456.563]

456.581 Mobile Home Parks Purchase Account; use of funds. The Mobile Home Parks Purchase Account established in ORS 456.579 shall be used by the Housing Agency to provide:

(1) Technical assistance to tenants' associations and park purchase associations to assist tenants in activities related to the purchase of a mobile home and manufactured dwelling park by a tenants' association.

(2) By rule, loans for initial costs for purchasing a mobile home and manufactured dwelling park. Loans provided under this section may be made only to a park purchase association established pursuant to ORS 90.815 which includes more than 50 percent of the tenants residing in the park and for which in the opinion of the agency such purchase is economically feasible. [1989 c.919 §2]

Note: See note under 456.579

456.582 Prohibited acts; civil penalty.

(1) No person, either personally or by an agent, shall:

(a) Make any material omission or false statement in the application for a single-family residential loan financed by the Housing Agency; or

(b) Sell, rent or fail to occupy as a primary residence a single-family residence subject to an outstanding residential loan financed by the Housing Agency without the express written permission of the Housing Agency.

(2) In addition to any other penalties provided by law and in addition to any other powers of the administrator, the administrator may impose a civil penalty for violation of any of the provisions of subsection (1) of this section. No civil penalty shall exceed \$5,000 per violation.

(3) A civil penalty may be imposed by the administrator, after notice and hearing, which hearing shall be conducted in accordance with the provisions of ORS 183.310 to 183.550.

(4) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(5) All penalties recovered shall be paid into the Housing Finance Fund established

under ORS 456.720. [1979 c.327 §§23, 24; 1989 c.706 §16]

(Portland Single-family Housing)

456.589 Legislative findings. The Legislative Assembly finds that cities with a population of 300,000 or more suffer from a lack of available mortgage financing for the purchase of single-family homes in the core and inner areas of those cities. There is a need for low-cost mortgage financing for single-family home purchasers in order to prevent urban decay and blight and to promote the economic well being of those core and inner areas. [1979 c.327 §30]

456.590 [1971 c.505 §6, 1979 c.327 §2; renumbered 456.567]

456.593 Use of bonds for single-family home loans in Portland; amount; income and area limits; fees and charges. (1) Notwithstanding any of the provisions of ORS 456.550 to 456.720 to the contrary:

(a) Of the \$1,030,000,000 bond authorization under ORS 456.661, the aggregate principal amount of not to exceed \$30 million is to be made available exclusively for making or participating in making residential loans for detached single-family homes in any city.

(b) The bonds under paragraph (a) of this subsection may be sold as a part of the agency's overall nongeneral obligation bond issues under ORS 456.615 to 456.625 and 456.630 to 456.720, or separate issues totaling no more than \$30 million in an aggregate principal amount may be sold by the agency as required and requested by a city. The bonds need not be identified by individual loans or transactions but may include any number of individual loans or transactions or purposes within any single issue.

(c) With moneys received under paragraph (b) of this subsection, the agency may purchase, service, sell and make commitments to purchase, service and sell residential loans originated by private lending institutions or any individual or organization authorized by law to make such loans for residential housing for owner-occupied detached single-family housing located within an area of a city where the median income is below median Portland family income to persons whose annual income for the current and the immediately preceding year does not exceed 105 percent of the prevailing median income for families within that city. Areas eligible under this paragraph shall be identified by ordinance of the governing body of that city. That city shall have sole discretion to designate one or more of those areas, and the proportionate or approximate actual

amount of single-family residential loans to be made in those areas.

(d) Fees or service charges pursuant to ORS 456.625 (3) shall be charged or collected in connection with, or for, any loan, advance, insurance, loan commitments or servicing, by the agency under this section only after consultation with the city.

(2) As used in this section, unless the context requires otherwise, "city" means any city with a population of 300,000 or more. [1979 c.327 §§31, 32; 1981 c.504 §5]

456.600 [1971 c.505 §7, 1977 c.98 §1; 1979 c.327 §17, renumbered 456.571]

(Mortgage Credit Certificates)

456.605 Mortgage credit certificate program. (1) The agency may establish and implement mortgage credit certificate programs to make available income tax credits for indebtedness incurred on acquisition, improvement or rehabilitation of a principal residence. Under this program, the agency may issue tax credit certificates to persons and families with incomes equal to or lower than the median family income as calculated under ORS 456.620 (4).

(2) If the agency elects to issue federal income tax credit certificates, the administrator shall certify that each mortgage credit certificate program meets the requirements of Section 103A of the Internal Revenue Code as amended by the 98th Congress of the United States. The agency shall make the determination of the amount of qualified mortgage bonds that will not be issued so as to allow the issuance of mortgage credit certificates.

(3) If the administrator of the agency determines that the mortgage credit certificate program is not effective with the median family income limitation established in subsection (1) of this section, the administrator may issue tax credit certificates to persons and families with incomes up to a percent of median family income determined appropriate by the Emergency Board, if the person or families otherwise qualify for the program. [1985 c.501 §2]

Note: 456.605 was enacted into law by the Legislative Assembly and added to and made a part of ORS 456.550 to 456.720. However, 456.605 was not added to or made a part of ORS 456.574 to 456.625. See the Preface to Oregon Revised Statutes for further explanation.

456.610 [1971 c.505 §10; 1973 c.828 §28; 1979 c.327 §3; renumbered 456.574]

(Financing of Low Income Housing)

456.615 Definitions for ORS 456.550 to 456.720. As used in ORS 456.550 to 456.720, unless the context requires otherwise:

(1) "Agency" means the Housing Agency.

(2) "Bonds" means any bonds, notes or other evidence of indebtedness, including notes or other evidence of indebtedness issued in anticipation of the issuance of bonds and payable from the proceeds of bonds issued, issued under ORS 456.515 to 456.547 and 456.550 to 456.720.

(3) "Capital reserve account" or "capital reserve accounts" means one or more of the special trust accounts which may be established by the agency within the Housing Finance Fund.

(4) "Housing finance bond declaration" means a written instrument signed by the Administrator of the Housing Agency and on file with and bearing the certificate of approval of the State Treasurer, and all housing finance bond declarations supplemental thereto.

(5) "Consumer housing cooperative" means a cooperative corporation formed under ORS chapter 62 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 62, that:

(a) The consumer housing cooperative has been organized exclusively to provide housing facilities for persons and families of lower income and such social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All income and earnings of the consumer housing cooperative shall be used exclusively for consumer housing cooperative purposes and that no unreasonable part of the net income or net earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, corporation, partnership or association.

(c) The consumer housing cooperative is in no manner controlled or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any transaction therewith, except that such limitation shall apply to the members of the cooperative only to the extent provided by rules of the agency.

(d) The operations of the consumer housing cooperative may be supervised by the agency and that the consumer housing cooperative shall enter into such agreements with the agency as the agency may require to provide regulation by the agency of the planning, development and management of any housing project undertaken by the cooperative and the disposition of the property and other interests of the cooperative.

(6) "Development costs" means the costs that have been approved by the agency as appropriate expenditures and includes, but is

not limited to payments for options to purchase property for the proposed housing project site, deposits on contracts of purchase, payments for the purchase of property as approved by the agency, legal, organizational and marketing expenses including payment of attorney fees, managerial and clerical staff salaries, office rent and other incidental expenses, payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work; expenses for surveys as to need and market analyses; and such other expenses incurred by the qualified housing sponsor as the agency may deem necessary under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(7) "Elderly" means a person or a family whose head of the household is 58 years of age or older, residing in the state, whose income is below the level which the agency has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of the household, as provided in ORS 456.620 (4).

(8) "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an agency or instrumentality thereof.

(9) "Housing development" means a development that primarily contains housing units for persons or families of lower income and such other incidental elements of commercial, recreational, industrial, communal or educational facilities as the agency determines improve the quality of the development as it relates to housing for persons or families of lower income. Profits from incidental elements shall be applied to loans due under ORS 456.550 to 456.720.

(10) "Housing Finance Fund" means the Housing Finance Fund established in ORS 456.720 (1).

(11) "Lending institution" means any bank, mortgage banking company, trust company, savings bank, savings and loan association, credit union, national banking association, federal savings and loan association or federal credit unit maintaining an office in this state, or any insurance company authorized to do business in this state.

(12) "Limited dividend housing sponsor" means a corporation, trust, partnership, association, other entity, or an individual. Such mortgagor shall be restricted as to distribution of income and shall be regulated as to rents, charges, rate of return and methods of operation as the agency determines necessary to carry out the purposes of ORS

456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(13) "Lower income families or persons" means the elderly and families and persons, residing in this state, whose income is below the level which the agency has determined to be necessary in order to obtain in the open market decent, safe and sanitary housing, including the costs of utilities and taxes, for 25 percent of the gross income of such family or person, as provided under ORS 456.620 (4). The term may also include other families or persons where the assistance provided is determined by the administrator to be incidental to the accomplishment of the agency's programs for lower income families or persons. The agency, in cooperation with affected local governments, shall determine what constitutes "decent, safe and sanitary housing."

(14) "Manufactured housing" means a dwelling unit manufactured off site having a minimum width of 10 feet and a minimum area of 400 square feet built on a permanent chassis and designed to be used for permanent residential occupancy whether or not on a permanent foundation, which dwelling unit contains permanent eating, cooking, sleeping and sanitary facilities and meets such standards as the agency determines, by rule, are reasonable to maintain the quality, safety and durability of the dwelling, the sanitary requirements of the communities in which they are located and the security of the loans which the agency may finance for the purchase of the dwellings.

(15) "Nonprofit housing corporation" means an organization formed under ORS chapter 61 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter 61, that:

(a) The corporation has been organized exclusively to provide housing facilities for persons and families of lower income and such other social, recreational, commercial and communal facilities as may be incidental to such housing facilities.

(b) All the income and earnings of the corporation shall be used exclusively for corporation purposes and that no part of the net income or net earnings of the corporation shall inure to the benefit of any private individual, firm, corporation, partnership or association.

(c) The corporation is in no manner controlled or under the direction or acting in the substantial interest of any private individual, firm, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in transactions therewith.

(d) The operations of the corporation may be supervised by the agency and that the corporation shall enter into such agreements with the agency as the agency may require to regulate the planning, development and management of any housing project undertaken by the corporation and the disposition of the property and other interests of the corporation.

(16) "Project cost" or "costs of the project" means the sum of all reasonable expenses incurred by a qualified housing sponsor in undertaking and completing a housing project approved by the agency. Such costs include but are not limited to the expenses incurred by a qualified housing sponsor for studies and surveys; plans, specifications, architectural and engineering services; legal, organizational and other special services; financing, acquisition, demolition, construction, equipment and site development of new and rehabilitated housing units; movement of existing buildings to new sites; the cost of acquisition, or estimated fair market value, of land and other interests in real estate; rehabilitation, reconstruction, repair or remodeling of existing buildings; estimated carrying charges during construction and for a reasonable period thereafter; placement of tenants or occupants and relocation services in connection with the housing project; reasonable builder's or sponsor's profit and risk allowance; and, to the extent not already included, all development costs.

(17) "Qualified housing sponsor" includes, subject to the approval of the agency, a consumer housing cooperative, a limited dividend housing sponsor, a nonprofit housing corporation, a for-profit housing sponsor including, but not limited to, an individual operating in compliance with the criteria adopted by the agency under ORS 456.620 (1), a housing authority created by ORS 456.075, an urban renewal agency created by ORS 457.035 and any city or county governing body or agency or department designated by the governing body.

(18) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land development and acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other non-housing facilities as may be incidental or appurtenant thereto. As used in this subsection, "land development" includes, but is not limited to, the improvement of streets and alleys and the construction of surface drains, sewers, curbing and sidewalks.

(19) "Residential loan" means a loan for the acquisition, construction, improvement or rehabilitation of residential housing and,

if the loan is for acquisition or construction of residential housing, which is secured by a first lien on real property located in the state and improved by a newly constructed, existing or rehabilitated residential structure for lower income persons or families, or unimproved if the proceeds of such loan shall be used for the erection of a residential structure thereon, whether or not such loan is insured or guaranteed by the United States or any instrumentality or agency thereof. The term also includes an insured or guaranteed loan for the acquisition of manufactured housing, which insured or guaranteed loan need not be secured by a first mortgage on real property but shall be secured by a security interest of first priority. The term also includes a loan for the purchase of a proprietary lease and related cooperative shares in a housing cooperative formed under ORS chapter 62 secured by a security interest of first priority and a pledge or an assignment of proprietary leases and related cooperative shares.

(20) "Revolving account" means the Housing Agency Revolving Account created in ORS 456.574. [1973 c.828 §4; 1975 c.154 §1; 1979 c 60 §1; 1979 c.327 §4, 1981 c.504 §6; 1981 c.691 §1, 1987 c 414 §18]

456.620 Duties of agency under ORS 456.615 to 456.625 and 456.630 to 456.720. In carrying out ORS 456.615 to 456.625 and 456.630 to 456.720, the agency shall, with the concurrence of the State Housing Council:

(1) Adopt standards for the planning, development and management of housing projects for which qualified housing sponsors receive all or a portion of any required financing under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, for audits and inspections to determine compliance with such standards and adopt criteria for the approval of qualified housing sponsors under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(2) Adopt criteria for the approval of qualified housing sponsors in ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(3) Enter into agreements with qualified housing sponsors to regulate the planning, development and management of housing projects constructed with the assistance of the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(4) Establish maximum income limits which shall in no case exceed the median family income level, as determined by the agency, in the area where housing is to be provided. However, the agency may waive the income limits for elderly households seeking residence within an elderly or disa-

bled housing project if a person in the household falls within the target population described under ORS 456.515 (5)(b). Where programs of the agency are administered on a state-wide basis, income limits may be established by reference to the median family or personal income in the state, or in various regions in the state, as determined by the agency.

(5) Insure that financing is provided in the agency's programs for manufactured housing. [1973 c.828 §5; 1979 c 60 §2, 1979 c 327 §5, 1985 c 501 §4]

456.625 Powers of agency. As directed by the council, the agency may:

(1) Undertake and carry out studies and analyses of housing needs within the state and ways of meeting such needs and make the results of such studies and analyses available to the public, qualified housing sponsors and the private housing sector.

(2) Submit proposed legislation to the Legislative Assembly on measures it considers necessary to alleviate any existing housing shortage or detrimental housing condition as determined under subsection (1) of this section.

(3) Charge fees or interest in connection with programs or services provided under ORS 456.515 to 456.720.

(4) Encourage community organizations to assist in initiating housing projects for persons and families of lower income.

(5) Encourage the salvage of usable housing scheduled for demolition or relocation because of highway, school, urban renewal or other public projects by seeking authority for the public agencies involved in such programs to use the funds provided for the demolition or relocation of such buildings to enable qualified housing sponsors to relocate and rehabilitate such buildings for use by persons and families of lower income.

(6) Encourage research and demonstration projects to develop techniques and methods for increasing the supply of adequate, decent, safe and sanitary housing for persons and families of lower income.

(7) Make or participate in the making of residential loans to qualified individuals or housing sponsors to provide for the acquisition, construction, improvement, rehabilitation or permanent financing of residential housing or housing development; undertake commitments to make residential loans; purchase and sell residential loans at public or private sale; modify or alter such mortgages or loans; foreclose on any such mortgage or security interest or commence any action to protect or enforce any right conferred upon

the agency by any law, mortgage, security, agreement, contract or other agreement and to bid for and purchase property that is subject to such mortgage or security interest at any foreclosure or other sale; acquire or take possession of any such property and complete, administer, conserve, improve and otherwise use the property to accomplish the agency's purposes, pay the principal and interest on any obligations incurred in connection with such property and dispose of such property in such manner as the agency determines necessary to protect its interests under ORS 456.515 to 456.547, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(8) Unless specifically exempted by the State Treasurer, deposit with the State Treasurer any funds held in reserve or sinking funds under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 and any other moneys not required for immediate use or disbursement by the agency, subject to the provisions of any agreement with holders of bonds entered into prior to October 15, 1983.

(9) Advise and assist in the creation of any nonprofit housing corporation, consumer housing cooperative or limited dividend housing sponsor and give approval of the articles of incorporation and bylaws of any such organization in carrying out ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(10) Cooperate with and exchange services, personnel and information with any federal, state or local governmental agency.

(11) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state or local governmental agencies, in carrying out ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(12) Perform any other duties that the agency considers necessary in carrying out ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(13) Purchase, service, sell and make commitments to purchase, service and sell residential loans to the extent permitted by ORS 456.635 and 456.640 (1) to (3).

(14) Initiate or assist appropriate state agencies, governmental bodies and public or private housing sponsors in the development, construction, acquisition, ownership, leasing, rehabilitation or management of housing to carry out the purposes of ORS 456.515 to 456.720 where such housing is not otherwise affordable or available in the area.

(15) Subject to the provisions of any agreement then existing with bondholders, make available funds by contract, grant, loan

or otherwise, including loan guarantees, insurance or other financial leveraging techniques, from moneys made available by the agency to carry out the purposes of ORS 456.515 to 456.720, if such moneys are not needed for the operations of the agency or otherwise determined by the administrator to be a necessary or prudent reserve. [1973 c.828 §6; 1975 c.154 §8; 1979 c.60 §3; 1979 c.327 §6; 1981 c.504 §7; 1981 c.691 §2; 1983 c.519 §2; 1985 c.501 §3; 1987 c.567 §2; 1989 c.307 §6]

456.627 Legislative finding on availability of single-family residential loans. Notwithstanding the provisions of ORS 456.625 (7), the agency shall not make any single-family residential loan directly to any individual unless the Legislative Assembly or Emergency Board finds that private lending institutions are unwilling or unable to participate in the agency's single-family residential loan programs or portions of those programs under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720. [1981 c.504 §12]

456.630 Services to qualified sponsors and institutions. The agency may provide to qualified housing sponsors and lending institutions such advisory, consultative training and educational services as necessary in assisting such sponsors. Such advisory and other services include, but are not limited to, technical and professional planning assistance, preparation and promulgation of organizational planning and development guidelines, consultation services, training courses, seminars and lectures and other services or materials for assistance of such sponsors in the planning, development and management of housing projects under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720. [1973 c.828 §7]

456.635 Commitments of agency on residential loans. (1) In order to provide additional permanent financing for housing for persons and families of lower income, the agency may make commitments to purchase and purchase, insure, service and sell residential loans held by lending institutions for persons and families of lower income in this state. The agency may purchase from lending institutions securities backed by residential loans.

(2) Any commitment made by the agency subject to subsection (1) of this section shall be based upon an agreement with the lending institution that the proceeds received by the lending institution from the sale of such loans to the agency shall be used by the lending institution only for the financing of residential housing for persons and families of lower income in this state, including the financing of newly originated residential loans, provided the loans are made after the

date of the agency's commitment. [1973 c.828 §8; 1979 c.60 §4; 1979 c.327 §7]

456.640 Purchase of residential loans.

(1) The agency shall prescribe a form for the application by a lending institution for the purchase of newly originated or other existing residential loans by the agency under ORS 456.635.

(2) Prior to the submission by it of an application for the purchase by the agency of existing residential loans under ORS 456.635, a lending institution may request the reservation by the agency of funds.

(3) The agency may grant a reservation of funds in such amount and subject to such conditions as it considers necessary under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(4) Upon the decision by the agency to purchase residential loans under ORS 456.635, the agency shall issue a binding letter of commitment subject to such terms and conditions as the agency considers necessary. The letter of commitment shall be binding upon the agency as of the date of its execution subject to the terms and conditions, if any, included therein. [1973 c.828 §§9, 10, 1979 c.60 §5; 1979 c.327 §8]

456.645 Revenue bonds. (1) The State Treasurer, at the request of the agency, from time to time, may issue and sell bonds in the name of and on behalf of the State of Oregon in compliance with the applicable provisions of ORS 286.010, 286.020, 286.031 to 286.061 and 286.105 to 286.135 in the principal amount the agency considers necessary to carry out the purposes of ORS 456.550 to 456.720, or for paying or refunding any bonds previously issued by the agency for such purposes.

(2) All bonds shall be special revenue obligations of the State of Oregon, and, unless paid from the proceeds of other bonds, shall be payable as to principal, redemption premium, if any, and interest, solely from the revenues, assets or funds in the Housing Finance Fund as may be pledged therefor, subject to existing agreements with the holders of any bonds, in accordance with any housing finance bond declaration. Bonds may be paid from any source available under ORS 456.515 to 456.547, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, including but not limited to:

(a) From the income and revenues of the housing project or projects financed with the proceeds from the sale of such bonds or with such proceeds together with other moneys available to the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 or other moneys or grants from the Federal Government in aid of such projects.

(b) From the income and revenues of certain designated housing projects, whether or not financed with the proceeds from the sale of such bonds, if such housing projects were financed with moneys available to the agency under ORS 456.515 to 456.547, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(c) From funds held in a capital or other reserve account.

(d) From such other funds as deemed adequate in fulfilling the purposes of ORS 456.515 to 456.547, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(e) From the revenues of the agency under ORS 456.515 to 456.547, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, generally.

(3) The agency shall maintain accounting records and shall prepare annual financial statements for distribution to existing and potential bond purchasers. [1973 c.828 §11; 1975 c.154 §2, 1979 c.327 §9; 1981 c.660 §39, 1983 c.519 §3]

456.650 Refunding bonds. The State Treasurer, in consultation with the agency, may issue refunding bonds, together with other bonds of the agency, for the purpose of refunding outstanding bonds issued under ORS 456.645. The refunding bonds may be sold in the same manner as other bonds are sold under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720. The issuance of the refunding bonds, the maturity date, and other details thereof shall be governed by the applicable provisions of ORS 286.010, 286.020, 286.031 to 286.061, 286.105 to 286.135, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 for the issuance and sale of bonds. The refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes. Pending the use of moneys obtained from the sale of refunding bonds for the proper purposes, such moneys may be deposited by the agency as provided in ORS 456.625 (8). [1973 c.828 §12, 1981 c.660 §40, 1983 c.519 §4]

456.655 When bonds not to be issued; debt service reserve; bond declaration. (1) Bonds may be secured additionally by a pledge of amounts in the capital reserve account if provided in the housing finance bond declaration authorizing their issuance. The State Treasurer shall not issue bonds secured by a pledge of amounts in the capital reserve account unless the amount then on deposit in the capital reserve account, together with the amount of the proceeds of the bonds to be deposited in the account, is equal to or greater than the required debt service reserve. Subject to existing agreements with bondholders, the required debt service for

any issue reserve shall be, as determined in the housing finance bond declaration, either (i) the maximum or (ii) the average of the amounts payable as annual debt service on all outstanding bonds secured by a pledge of amounts in the capital reserve account in any one fiscal year during the remaining term of such bonds. The annual debt service is an amount equal to the aggregate of:

(a) All interest payable during the fiscal year on all bonds secured by a pledge of amounts in the capital reserve account outstanding on the date of computation; and

(b) The principal amount of such bonds maturing during the same fiscal year; and

(c) All amounts as specified in any housing finance bond declaration or in any contract with bondholders as payable during such fiscal year as a sinking fund payment with respect to any bond issues as the agency has determined a debt service shall be required which mature after such fiscal year.

(2) The required debt service reserve shall be calculated on the assumption that bonds will after the date of computation cease to be outstanding by reason of payment of the bonds when due at their respective maturity, and upon application, in accordance with the resolution or any contract with bondholders, of all sinking fund payments payable at or after such date of computation. However, the agency may, at the time of issuance of additional bonds, deposit in the capital reserve account, from the proceeds of the additional bonds to be issued, or other sources, an amount, which, together with the amount then in such fund will be not less than the maximum required debt service reserve.

(3) No bonds shall be issued by the State Treasurer unless they are part of an issue described in a written instrument signed by the Administrator of the Housing Agency and filed in the office of the State Treasurer. Each instrument shall set forth or otherwise determine or provide for the date of the bonds, the amount, the maturity or maturities, the rate or rates of interest, the form of bonds, the place of payment, registration provisions, terms of redemption, and time, place and manner of sale of the issue. Each instrument, when the State Treasurer shall have certified approval thereon, shall be known as a "housing finance bond declaration." Each housing finance bond declaration shall be deemed to be and shall constitute conclusive proof of the authorization to issue the bonds therein described and may contain such further pledges and provisions concerning bonds. The State Treasurer and the administrator of the agency shall have and exercise all powers necessary or incidental

to carry out the purposes of this subsection. [1973 c.828 §13; 1975 c.154 §3; 1983 c.519 §5]

456.660 [1973 c.828 §14; repealed by 1979 c.327 §10 (456.661 enacted in lieu of 456.660)]

456.661 Limit on amount of revenue bonds outstanding; dedication of certain bond proceeds. (1) The aggregate principal amount of bonds issued under ORS 456.645 which may be outstanding is \$1,030,000,000, excluding bonds issued under, and within the limits provided in ORS 456.515 to 456.547 and any bonds which have been refunded under ORS 456.650 or advance refunded under ORS 288.605 to 288.690. \$30 million of the total \$1,030,000,000 of bonds authorized under this section or proceeds from the sale of the bonds shall be made exclusively available for making or participating in making residential loans for single-family homes in cities with a population of 300,000 or more in the manner specified in ORS 456.593. No more than \$10 million of the bonds authorized under this section or proceeds from the sale of the bonds shall be made available for residential loans for home improvements.

(2) For the purpose of determining the aggregate principal amount of bonds issued or outstanding, the value of bonds shall be calculated as follows:

(a) If, upon sale, the initial reoffering price is equal to or more than 98 percent of the maturity value of the bonds, the value of the bonds shall be the maturity value on the date of the calculation.

(b) If, upon sale, the initial reoffering price is an amount less than 98 percent of the maturity value of the bonds, the value of the bonds shall be the price on any date of the calculation that would result in a yield-to-maturity equal to the yield-to-maturity at the time the bonds were sold by the state.

(3) For the purposes of the limitation contained in subsection (1) of this section, the aggregate principal amount of bonds outstanding shall be determined for any date of calculation by subtracting the aggregate value of bonds which would have matured or would have been redeemed through mandatory sinking fund payments from the aggregate value of bonds issued.

(4) The Legislative Assembly finds that section 103A of the Internal Revenue Code, as enacted by the 96th Congress of the United States:

(a) Defines qualified mortgage bonds, which are treated as exempt from federal income taxes under the code;

(b) Establishes limitations on the purposes and aggregate amount or the state ceiling of qualified mortgage bonds which may be issued within a state during any calendar year; and

(c) Authorizes the state to allocate the amount of qualified mortgage bonds within the state ceiling among the units of government having authority to issue those bonds.

(5) The Legislative Assembly further finds that:

(a) Pursuant to ORS 456.515 to 456.720, the agency has served as the sole agency or instrumentality of the state authorized to coordinate and establish state-wide priorities for housing programs and to provide planning and technical assistance to sponsors of housing for persons and families of lower income throughout the state.

(b) The agency's activities have been instrumental in alleviating the serious shortage of decent, safe and sanitary housing for lower income persons.

(c) Continuation of the agency's programs for financing owner-occupied residential housing to the fullest extent practicable under section 103A of the Internal Revenue Code is a matter of paramount concern to the state.

(d) Cities have issued qualified mortgage bonds to finance the rehabilitation of housing as part of urban renewal or community development plans under home rule powers or authority granted under ORS 457.010 to 457.460. Further, some cities now have authority to issue bonds under ORS 280.417 to 280.485. Such bonds may be considered qualified mortgage bonds under section 103A of the Internal Revenue Code when issued to finance owned units in multiunit structures.

(6) For purposes of section 103A of the Internal Revenue Code, the agency shall allocate the state ceiling of qualified mortgage bonds. The agency shall determine the allocations to cities as may be necessary for bonds issued as provided in subsection (7) of this section and any balance of that state ceiling shall be allocated to the agency. This determination shall be made for each calendar year and shall be set forth in a Certificate of Determination signed by the administrator of the agency and filed with the State Treasurer. The Certificate of Determination shall cover the allocation during such year or any portion thereof.

(7) The agency shall allocate to cities the portions of the state ceiling as shall be necessary for bond programs specified in paragraph (d) of subsection (5) of this section. Before July 1, 1981, and each January 1 thereafter, any city may notify the agency of its intention to issue qualified mortgage bonds and of the amount of the bonds intended to be issued during the ensuing calendar year. Promptly upon determining the applicable state ceiling for that calendar year and the applicable limit for that city pro-

vided in paragraph (3) of subsection (g) of section 103A of the Internal Revenue Code, the agency shall allocate to any such city the lesser of the amount of that limit or the amount intended to be issued by the city. Upon request of any such city, the agency may increase or decrease the allocation at any time in the discretion of the administrator and amend the Certificate of Determination accordingly.

(8) The agency shall be responsible for the designation of areas of chronic economic distress within the state for approval as provided in section 103A of the Internal Revenue Code. [1979 c.327 §11 (enacted in lieu of 456.660), 1981 c.504 §8, 1981 c.691 §3; 1985 c.205 §1]

456.665 Revenue bonds not general obligation of agency or state; negotiability of bonds; interest tax-exempt. (1) Neither the State Treasurer, the Administrator of the Housing Agency, the State Housing Council nor any officer or employee of the agency shall be liable personally on any bonds issued under ORS 456.550 to 456.720 by reason of the issuance thereof.

(2) All obligations issued by the State Treasurer under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 shall not constitute a debt, liability or general obligation of this state or any political subdivision thereof or a pledge of the faith and credit of this state or any such political subdivision, but shall be payable solely from the revenues or assets of the agency acquired pursuant to ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720. Each obligation issued under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 shall contain on the face thereof a statement that the agency shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of this state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligation.

(3) All bonds issued by the State Treasurer under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 shall be fully negotiable.

(4) The interest upon all bonds, including refunding bonds, issued by the State Treasurer under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 shall be exempt from personal income taxation in the State of Oregon. [1973 c.828 §15; 1979 c.327 §17a; 1981 c.23 §3; 1983 c.519 §6; 1987 c.414 §19]

456.670 Bond maturity, execution, sale. Bonds issued by the State Treasurer shall mature at the time or times not ex-

ceeding 42 years from the date of issue as shall be stated in the housing finance bond declaration. Notwithstanding ORS 286.056 and 286.058, bonds issued by the State Treasurer may be sold at private or public sale at such price or prices as the State Treasurer, upon the advice of the agency, may prescribe. Notwithstanding the provisions of any other law, the rates of interest payable and discount, if any, with respect to bonds issued under ORS 456.550 to 456.720 shall be determined by the State Treasurer, upon the advice of the agency. The bonds shall be executed by the Governor, the Secretary of State and the State Treasurer in the manner set forth in ORS 286.031 to 286.061. [1973 c.828 §16, 1975 c.154 §4; 1979 c.327 §12, 1981 c.23 §4, 1981 c.660 §41; 1983 c.519 §7]

456.675 Bond provisions and limits; security for payment. (1) The bonds issued by the State Treasurer under ORS 456.519, 456.550, 456.559 and 456.574 to 456.625 and 456.630 to 456.720 and the agreements with the bondholders may:

(a) Pledge all or any part of the fees and charges made or received by the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 and all or any part of the moneys received in payment of residential loans and interest thereon and other moneys received or to be received by the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 to secure payment of the bonds, subject to the provisions of any agreements with bondholders then existing.

(b) Pledge all or any part of the assets of the agency acquired under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, including residential loans and obligations securing such residential loans to secure the payment of the bonds, subject to the provisions of any agreements with bondholders then existing.

(c) Pledge any moneys, loans or grants received from the Federal Government, the state or any city, county or political subdivision of this state for any housing project financed in whole or in part from the sale proceeds of bonds.

(d) Provide for the use and disposition of the gross income from residential loans held by the agency and for the payment of the principal on residential loans held by the agency.

(e) Limit the purposes for which the proceeds from the sale of bonds may be applied by the agency and pledge such proceeds to secure payment of the bonds of the agency.

(f) Limit the issuance of additional bonds, the terms upon which such additional bonds

may be issued and the refunding of outstanding bonds.

(g) Provide for the procedure, if any, by which the terms of any contract with bondholders may be amended or rescinded, the percentage of the bondholders that must consent thereto and the manner of giving their consent thereto.

(h) Vest in a trustee appointed by the administrator such property, rights, powers and duties in trust as the agency may determine, including the rights, powers and duties of a trustee appointed for bondholders pursuant to ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 or limiting the rights, powers and duties of any trustee so appointed.

(i) Provide for other matters affecting security for the bonds.

(2) Any pledge made by or pursuant to subsection (1) of this section shall be valid and binding from the time when the pledge is made. The revenues, assets and funds pledged pursuant to subsection (1) of this section shall immediately be subject to the lien or pledge without physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether the parties have notice thereof. No housing finance bond declaration or any other instrument by which the pledge is created need be recorded or filed except as provided in ORS 456.550 to 456.720 and the agency shall not be required to comply with any of the provisions of the Oregon Uniform Commercial Code. [1973 c.828 §17; 1975 c.154 §5, 1977 c.32 §1; 1979 c.60 §6; 1981 c.504 §9; 1983 c.519 §8]

456.680 Purchase of bonds by agency. The agency, subject to any existing agreements with its bondholders, may purchase bonds then outstanding out of any funds of the agency available therefor under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720. Any bonds of the agency so purchased shall be canceled. The agency may purchase such bonds whether or not such bonds are redeemable at the time of such purchase. If the bonds are then redeemable, the agency shall purchase such bonds at a reasonable price not exceeding the redemption price then applicable plus accrued interest to the date of redemption. [1973 c.828 §18]

456.685 Bondholders' remedies. (1) If the agency defaults in the payment of the principal or interest due upon a bond, whether at maturity or upon call for redemption and such default continues for a period of 30 days thereafter or if the agency fails or refuses to comply with any agree-

ment with the bondholders or any other provision of ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, the holders of 25 percent in aggregate principal amount of bonds then outstanding may instruct the trustee to represent them as provided in subsection (2) of this section by filing an appropriate instrument that is acknowledged in the manner provided for the acknowledgment of deeds in this state with the county clerk for Marion County.

(2) A trustee appointed pursuant to subsection (1) of this section may:

(a) Enforce all rights of the bondholders under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 or any agreement with the agency by appropriate proceedings.

(b) Bring suit upon such bonds.

(c) By appropriate proceeding, require the agency to account.

(d) By appropriate judicial proceedings, enjoin any act of the agency that is in violation of ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 or in violation of any agreement with the bondholders.

(e) Exercise any powers necessary or appropriate for the exercise of any functions under this section or otherwise incidental to the general representation of the bondholders in the enforcement and protection of their rights. [1973 c.328 §19]

456.690 Loan authority of agency. (1) Upon a finding made by the State Housing Council that the supply of funds available through lending institutions for the financing of residential loans for the acquisition, construction, improvement or rehabilitation of housing units or housing projects for persons and families of lower income is inadequate, the agency may make loans to lending institutions in this state for the purpose of providing funds to such institutions for the financing of residential housing units or housing projects for persons and families of lower income.

(2)(a) The agency, subject to existing agreements with bondholders, may make privately or federally insured or guaranteed loans for rehabilitation or improvement of existing single-family homes for lower income persons and families if the Administrator of the Housing Agency finds that:

(A) The supply of funds available through private lending institutions for that purpose is inadequate; and

(B) The housing may be rehabilitated or improved to provide adequate, safe and sanitary residential housing.

(b) The agency may cooperate with qualified housing sponsors in the development

and implementation of such loan programs. Loans made by the agency under this subsection shall be made for single-family homes..

(3) Prior to the making of any loan under this section, the council shall adopt rules governing the making of such loans, including but not limited to:

(a) Procedures for the submission, review and approval of requests for loans under this section.

(b) Standards and requirements for the allocation of loan moneys available among eligible borrowers and the determination of the terms, conditions and interest rates for such loans.

(c) Limitations, if any, on the number of housing units or projects, type of housing units or projects and any other characteristics for the eligibility of housing units or projects for such financing.

(d) Restrictions, if any, on the interest rates to be charged by lending institutions on loans made from such loan proceeds and the return to be realized by the lending institution therefrom.

(e) Commitment requirements applied to residential mortgage financing by lending institutions from the proceeds of such loans.

(f) Schedules of fees and other charges to be made by the agency in accepting, reviewing and acting upon applications for loans under this section.

(4) The agency shall administer the loan program for rehabilitation or improvement of existing single-family homes for lower income persons and families in accordance with the following requirements and loan criteria:

(a) Eligibility for a loan shall be based on current agency income limitations.

(b) A loan may be assumed only by another lower income person.

(c) The single-family home for which a loan is made must be owner-occupied.

(d) The maximum principal amount of a single loan is \$15,000.

(e) An eligible borrower shall have only one loan outstanding under this program at any one time.

(f) An eligible improvement including, but not limited to, a remodeling project shall be defined by rule and the provisions of the Revenue Adjustments Act of 1980 (Public Law 96-499), as adopted December 5, 1980, shall be recognized in that definition.

(g) Loans shall be made in accordance with a distribution of population between

urban and rural areas that takes the availability of alternative resources into account.

(h) The agency shall work with qualified housing sponsors whenever it is appropriate to do so.

(5) All loans made and all rules adopted under this section shall be designed by the council to expand the supply of funds available in this state for the financing of residential housing units and housing projects for persons and families of lower income, to provide an adequate supply of safe and sanitary units of such housing, and to promote the effective participation of conventional lending institutions in the financing of such housing and restrict the financial return and benefit to such lenders to that which is necessary and reasonable to induce their participation under this section.

(6) In making loans under this section, the agency may prescribe such terms, conditions, maturity dates and interest rate provisions as it considers necessary. [1973 c.828 §20; 1979 c.60 §7; 1979 c.327 §14; 1981 c.691 §4; 1985 c.298 §1; 1989 c.307 §7]

456.695 Housing required to comply with land use plans, zoning and other ordinances. All housing units or projects for which funds are advanced, loaned or otherwise provided by the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 must be in compliance with any interim comprehensive land use plan or comprehensive land use plan and zoning, subdivision and other ordinances and regulations and laws of this state applicable to the lands upon which such projects are to be constructed; or, if an interim comprehensive land use plan or comprehensive land use plan is not in effect with respect to such lands, such units or projects must be in compliance with generally accepted land use planning standards. [1973 c.828 §21]

456.700 Pledge and lien. Any pledge, commitment or reservation of funds made by the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 shall be valid and binding from the date on which the pledge was executed. Any money or property pledged in return for such a commitment shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act by the agency. The lien of any such pledge shall be valid and binding as against all parties having any claims in tort, contract or otherwise against the agency whether or not such parties have notice of the lien. No instrument creating a pledge under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 need be recorded. [1973 c.828 §22; 1977 c.32 §2]

456.705 Servicing residential loans. With respect to the servicing of any residential loan made or acquired by the agency under ORS 456.515 to 456.547, 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, the agency may:

(1) Provide for servicing of the residential loan by its own staff.

(2) Contract with the Director of Veterans' Affairs for the performance of servicing functions for the residential loan.

(3) With respect to residential loans purchased by the agency under ORS 456.635, contract with the lending institution selling such loans or any other lending institution for the servicing of such loans, subject to such terms and conditions as the agency considers necessary to protect the interests of the agency in such loans. The agency may provide for the payment of such fees for servicing performed by a lending institution under this subsection as it considers necessary. [1973 c.828 §23; 1979 c.60 §8; 1979 c.327 §15]

456.710 Payment of advances; use thereof; limitations. (1) The agency may use moneys in the revolving account to make noninterest-bearing advances to qualified nonprofit housing sponsors or interest-bearing advances to other qualified housing sponsors for use in payment by such sponsors of the development costs of proposed housing units or projects. The agency may not make any advance under this subsection unless the agency may reasonably anticipate that a residential loan may be obtained by the qualified housing sponsor for the permanent financing of the proposed housing unit or project.

(2) The proceeds of any advance granted by the agency under subsection (1) of this section may be used by the qualified housing sponsor only for the development costs of a proposed housing unit or project or housing development. Each advance so granted shall be repaid in full, by the qualified housing sponsor for which the advance was granted, to the agency at the time of the receipt by the housing sponsor of the portion of the residential loan paid under the initial indorsement of the residential loan, unless the agency extends the repayment period. In no event shall the time of repayment be extended beyond the date of the receipt by the qualified housing sponsor of the portion of the residential loan paid on final indorsement of the residential loan. [1973 c.828 §24; 1979 c.60 §9; 1981 c.691 §5]

456.715 Insurance of loans. (1) The agency may insure residential loans or obtain reinsurance on such loans. However, all such loans shall be used only to provide residential housing for persons and families of

lower income and the insured must agree to any restrictions placed upon such residential housing by the agency. The agency may establish dedicated accounts within the Housing Finance Fund to provide reserves against losses in connection with that insurance.

(2) All applications for residential loan insurance under subsection (1) of this section shall be made on such forms and accompanied by such application fee as the agency may prescribe.

(3) The agency shall notify the applicant of its findings and the approval or denial of the application. [1973 c.828 §§25, 26, 1979 c.60 §10; 1979 c.327 §16]

456.717 Interim construction loan insurance required on multifamily housing.

(1) Notwithstanding the provisions of ORS 456.715, loans for the interim construction financing of multifamily housing projects shall, during any period that the loan is owned by the agency, be insured or guaranteed by a person or governmental agency not otherwise a party to the loan transaction. If the insurance or guarantee is not available, the loan shall be the subject of an arrangement with a responsible financial institution which, in the judgment of the State Housing Council, provides similar protection against risk of loss to the agency.

(2) As used in this section, "multifamily housing" means, but is not limited to, projects which provide four or more living units, which projects may provide spaces for common use by the occupants in social and recreational activities. [1979 c.327 §27; 1981 c.504 §10]

456.720 Housing Finance Fund; Housing Development Account. (1) The Housing Finance Fund is established, separate and distinct from the General Fund. The fund shall consist of the proceeds from the sale of bonds issued under ORS 456.645 and 456.650, fees and other moneys received by the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720, moneys appropriated by the state for use by the agency in carrying out ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720 and moneys made available from any other source for use by the agency under ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(2) Except as otherwise provided in this section, moneys in the fund may be expended by the agency for the purposes authorized in ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720. Except as otherwise provided in this section for a capital reserve account, the agency may establish one or more accounts within the fund for use in carrying out ORS 456.550, 456.559, 456.574 to 456.625 and 456.630 to 456.720.

(3) There may be established within the Housing Finance Fund capital reserve accounts. A capital reserve account shall consist of the aggregate of moneys retained by the agency, pursuant to existing agreements with the bondholders, as the annual debt service reserve, as described in ORS 456.655 (1), for each bond issue sold by the agency under ORS 456.645 or 456.650. All moneys in the account for an issue which the agency has determined a debt service reserve is required shall be used solely for the payment of the principal and interest on the bonds as they mature, the purchase of such bonds, the payment of interest on such bonds and the payment of any redemption premium required to be paid by the agency when any such bonds are redeemed prior to maturity. Moneys in the account may not be withdrawn therefrom at any time in such amount as would reduce the amount of moneys in the account below the maximum amount of principal and interest maturing and becoming due in the succeeding fiscal year on all such bonds then outstanding, except for the purpose of paying principal of and interest and premium, if any, on the bonds of the agency maturing and becoming due and for the payment of which other moneys in the Housing Finance Fund are not available.

(4) Except as otherwise provided in existing agreements with bondholders, any income or interest earned by or accruing to the capital reserve account because of the investment by the agency of moneys within the account may be retained by the agency in the fund to apply to any future deficiency that may occur or may be used by the agency for the repayment of moneys in the revolving account that were expended by the agency pursuant to ORS 456.574 (2)(b).

(5) In order to assure the continual operation and maintenance of the capital reserve account in the Housing Finance Fund and to carry out ORS 456.615 to 456.625 and 456.630 to 456.720, if the amount of money on deposit in the capital reserve account in any year is less than the debt service reserves described in ORS 456.655 (1), the administrator shall certify to the Governor and the Legislative Assembly or, during the interim, to the Emergency Board the amount needed to restore the account to its required debt service reserves. The amount so certified by the administrator may be appropriated by the Legislative Assembly or, during the interim, allocated by the Emergency Board and paid to the agency during the then current fiscal year for deposit in the capital reserve account.

(6) For the purposes of this section, the agency shall annually value investments in

the capital reserve account at the amortized cost of the investments.

(7) There is established within the Housing Finance Fund a Housing Development Account. Moneys in this account are hereby continuously appropriated to carry out the purposes of ORS 456.515 to 456.720 by contract, grant, loan or as otherwise determined necessary by the agency.

(8)(a) The Housing Development Account shall consist of moneys deposited or received by the agency for the purposes of this account from whatever source. Of the moneys deposited into the account:

(A) The agency shall not use moneys from its own resources for administrative expenses; and

(B) The agency may use moneys from other sources for administrative expenses only to the extent provided by those sources.

(b) The agency may return moneys received or deposited in the account to the original source of the moneys, as the administrator determines necessary.

(9) Except as otherwise stipulated by the source of funds, any income or interest earned by or accruing to the Housing Development Account because of the investment by the agency of moneys in the account may be retained by the agency for the uses of the account.

(10) The agency may enter into agreements regarding use of moneys received for the Housing Development Account with the source of the moneys, and may comply with the provisions of such agreements. [1973 c.828 §27, 1975 c.97 §1; 1975 c.154 §6; 1987 c.567 §3; 1989 c.966 §51]

(Bonding)

456.723 Legislative finding on bonding authority of agency. The Legislative Assembly finds that:

(1) There exists a shortage of safe, affordable and readily available housing in this state, particularly for people of low income, fixed income or modest means.

(2) It is in the best interests of the people of this state to insure that there is an adequate supply of housing for people of all income levels, particularly low-income people, in order to reduce:

(a) The number of people who are homeless or who live in inadequate housing in this state; and

(b) Dependence on various state services that exist because of the needs created by homelessness and inadequate housing.

(3) The Housing Agency's authority to issue bonds is an effective tool that will increase funds available to provide safe, af-

fordable housing and reduce homelessness in this state. [1989 c.719 §1]

Note: 456.723 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

DISCRIMINATION

456.725 Discrimination against purchaser with children prohibited; exceptions; rules. (1) Unless the qualified housing sponsor, as defined in ORS 456.615, has agreed not to discriminate against the initial dwelling unit purchaser or any tenant who is a parent or legal guardian with whom a child resides or is expected to reside, the housing sponsor shall not be entitled to any benefits for the construction, substantial rehabilitation or permanent financing of multiple unit residential housing or owner occupied dwelling units in condominiums or cooperatives from any of the following:

(a) Any state financed or sponsored housing program.

(b) Any tax exemption or limited assessment under ORS 307.600 to 307.690 or 308.450 to 308.481.

(2) Subsection (1) of this section does not apply where the dwelling units are occupied exclusively by households, the heads of which are 58 years or older.

(3) The Housing Agency shall adopt rules to establish and implement a grievance procedure for any unit purchaser or tenant who alleges violation of subsection (1) of this section whereby the grievance can be resolved by means of conciliation. Nothing in this section limits the right of the Housing Agency to enforce subsection (1) of this section by other appropriate remedies.

(4) The city shall terminate the exemption under ORS 307.600 to 307.690 upon a finding that the qualified housing sponsor which has the exemption has violated subsection (1) of this section.

(5) The governing body shall terminate the limited assessment under ORS 308.450 to 308.481 upon a finding that the qualified housing sponsor which has the limited assessment has violated subsection (1) of this section.

(6) Nothing in this section prevents the qualified housing sponsor from limiting the number of occupants in a unit depending on the number of rooms in compliance with a schedule adopted by rule by the Housing Agency or by local ordinance adopted by the governing body.

(7) Nothing in this section requires or prohibits a qualified housing sponsor from

providing facilities to accommodate the children of tenants. [1981 c.451 §1; 1987 c.414 §20]

Note: 456.725 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

BUILDING, HOUSING AND REAL ESTATE COUNCIL

456.727 Definitions for ORS 456.727 to 456.752. As used in ORS 456.727 to 456.752, "council" means the Building, Housing and Real Estate Council. [1987 c.414 §11]

Note: 456.727 to 456.752 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 456 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

456.730 [1975 c.676 §1; renumbered 455.510 in 1987]

456.732 Building, Housing and Real Estate Council created; duties. (1) The Building, Housing and Real Estate Council is created.

(2) The council shall have the following duties, powers and functions with respect to the Building Codes Agency, the Real Estate Agency and the Housing Agency:

(a) Furthering cooperation in purchasing, research, development and delivery of services among the agencies.

(b) Coordinating the activities of the agencies.

(c) Coordinating preparation of agency budgets.

(d) Fostering communication among the agencies.

(e) Providing administrative facilities and services for the agencies as the council determines necessary.

(3) The council shall carry out its duties, powers and functions by a vote of the majority of the council. The council may carry out its duties, functions and powers by order. The agencies shall be bound by such orders.

(4) The council shall be directly responsible to the Governor for performance of its duties, powers and functions.

(5) Except as otherwise provided in this section, the duties, powers and functions vested by law in the Building Codes Agency, Real Estate Agency and Housing Agency shall be performed solely by each agency. The agencies shall have separate budgets and shall employ their own staffs. [1987 c.414 §12]

Note: See note under 456.727.

456.735 [1975 c.676 §2; 1983 c.764 §1; renumbered 455.520 in 1987]

456.737 Members; appointment; chairman; confirmation; quorum. (1) The council shall be composed of the Administrator

of the Building Codes Agency, the Commissioner of the Real Estate Agency and the Administrator of the Housing Agency.

(2) The Governor shall appoint one of the council members to act as chairman. The chairman shall hold the office of chairman at the pleasure of the Governor.

(3) The appointment of the chairman is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(4) The council may appoint another council member to act as vice-chairman.

(5) Two members constitute a quorum for transacting business of the council. [1987 c.414 §13]

Note: See note under 456.727.

456.740 [1975 c.676 §4; 1981 c.495 §1; renumbered 455.525 in 1987]

456.741 Certain boards report to Governor; contracts for administrative service; function of council. (1) The following boards shall report to the Governor through the chairman of the council:

(a) State Board of Architect Examiners.

(b) State Landscape Architect Board.

(c) State Landscape Contractors Board.

(d) State Board of Engineering Examiners.

(e) State Board of Geologist Examiners.

(2) A board specified in subsection (1) of this section may contract with the council or with any other agency for administrative services.

(3) The function of the council with respect to the boards specified in subsection (1) of this section is that of fostering communication and cooperation among the boards and the Building Codes Agency, Real Estate Agency and Housing Agency. [1987 c.414 §13a]

Note: See note under 456.727

456.742 [Formerly 456.745, renumbered 455.530 in 1987]

456.744 [1977 c.354 §3; renumbered 455.565 in 1987]

456.745 [1975 c.676 §5; renumbered 456.742 and then 455.530]

456.746 [1977 c.354 §2; renumbered 455.560 in 1987]

456.747 [1977 c.354 §4; renumbered 455.570 in 1987]

456.748 [1977 c.354 §5; renumbered 455.575 in 1987]

456.749 [1977 c.354 §6; renumbered 455.580 in 1987]

456.750 [1973 c.834 §1, renumbered 455.010 in 1987]

456.752 Construction Contractors Board to report to Governor; council duties; board duties. (1) The Construction Contractors Board shall report to the Governor through the chairman of the council.

(2) The council shall have the duties, powers and functions with respect to the Construction Contractors Board that the

council has with respect to the agencies referred to in ORS 456.732, including the authority to provide administrative services and facilities. The Construction Contractors Board shall be bound by the administrative orders of the council.

(3) The duties, powers and functions vested by law in the Construction Contractors Board shall be performed solely by the board. [1987 c.414 §13b]

Note: See note under 456.727.

456.753 [1977 c.816 §2; renumbered 456.915 and then 455.310]

456.755 [1973 c.834 §2; 1979 c.838 §4; 1983 c.740 §179, renumbered 455.020 in 1987]

456.756 [1975 c.571 §2, renumbered 455.410 in 1987]

456.757 Advisory board to advise chairman on policy for activities regulated by Building Codes Agency. (1) The chairman, with the approval of the Governor, shall appoint an advisory board composed of the number of members fixed pursuant to ORS 456.762 who are qualified by education, training and experience to advise the chairman of the council in matters of policy affecting the administration of any professional activity regulated by the Building Codes Agency for which a license, certificate of registration or other evidence of authority is authorized or required and for which no professional licensing or advisory board is created by law.

(2) The advisory board shall make recommendations to the chairman regarding the qualifications of applicants for licenses, certificates or other authority and as to the revocation or suspension thereof.

(3) Recommendations of the advisory board shall be adopted by the chairman, unless, after hearing, the chairman determines that the board's recommendation is incorrect. [Formerly 670.330]

456.758 [1975 c.646 §2; renumbered 456.917 and then 455.315]

456.760 [1973 c.834 §3; 1975 c.607 §35; 1977 c.283 §3; 1979 c.875 §1, 1981 c.421 §3; renumbered 455.210 (1) to (5) in 1987]

456.762 Members on boards within Building Codes Agency; terms; vacancies; removal. (1) Subject to applicable provisions of law, the chairman shall fix the number of members on each professional licensing and advisory board established within the Building Codes Agency or referred to in ORS 456.741 at not fewer than three or more than 11 members. Members shall be citizens of the United States and residents of this state.

(2) Unless otherwise provided by law, members of boards described in subsection (1) of this section shall serve for terms of three years and no members shall be eligible

for appointment to more than three terms of office.

(3) Notwithstanding any other provision of law, the agency shall fix the terms of office of the initial appointments to boards described in subsection (1) of this section in order to assure an orderly rotation of terms and to avoid a disproportionate number of the appointments the chairman is authorized to make being required to be made on the same date.

(4) Upon the expiration of the term of the member of a board described in subsection (1) of this section, the chairman shall appoint a successor or may reappoint the incumbent member if the member is eligible for reappointment.

(5) The chairman shall fill vacancies on the boards as they may occur and a member appointed to fill a vacancy shall serve the unexpired term of the predecessor.

(6) The chairman may remove a member for good cause and may also remove any member appointed to represent a particular interest, occupation or geographic area when the member ceases to represent the interest, occupation or area. [Formerly 670.340]

456.763 [1977 c.546 §§2, 3; renumbered 455.420 in 1987]

456.765 [1973 c.834 §4, repealed by 1977 c.283 §6]

456.770 [1973 c.834 §5; renumbered 455.110 in 1987]

456.772 [1977 c.422 §§2, 3, renumbered 455.425 in 1987]

456.775 [1973 c.834 §6, 1977 c.283 §5; 1979 c.838 §5, renumbered 455.040 in 1987]

456.780 [1973 c.834 §7; renumbered 455.130 in 1987]

456.785 [1973 c.834 §9; 1977 c.494 §1; renumbered 455.030 in 1987]

456.787 [1979 c.838 §2, renumbered 455.635 in 1987]

456.790 [1973 c.834 §10; renumbered 455.100 in 1987]

456.795 [1973 c.834 §11; repealed by 1987 c.414 §172]

456.800 [1973 c.834 §12; renumbered 455.150 in 1987]

456.802 [1977 c.396 §1; renumbered 455.080 in 1987]

456.803 [1981 c.421 §2, renumbered 455.160 in 1987]

456.805 [1973 c.834 §13; renumbered 455.715 in 1987]

456.810 [1973 c.834 §14, 1981 c.343 §3; renumbered 455.720 in 1987]

456.815 [1973 c.834 §15; renumbered 455.725 in 1987]

456.820 [1973 c.834 §16; 1977 c.748 §2; renumbered 455.730 in 1987]

456.825 [1973 c.834 §18; renumbered 455.735 in 1987]

456.830 [1973 c.834 §17; repealed by 1977 c.283 §6]

456.835 [1973 c.834 §19; renumbered 455.740 in 1987]

456.837 [Formerly 446.337, renumbered 455.680 in 1987]

456.840 [1973 c.834 §20; renumbered 455.685 in 1987]

456.842 [1977 c.283 §2; renumbered 455.070 in 1987]

456.845 [1973 c.834 §21; renumbered 455.060 in 1987]

456.850 [1973 c.834 §22; renumbered 455.690 in 1987]

456.855 [1973 c.834 §23; renumbered 455.700 in 1987]

- 456.860 [1973 c.834 §25; 1977 c.283 §4; renumbered 455.220 in 1987]
 456.865 [1973 c.834 §26; repealed by 1977 c.283 §6]
 456.870 [1973 c.834 §27; repealed by 1977 c.283 §6]
 456.875 [1973 c.834 §28; renumbered 455.675 in 1987]
 456.880 [1973 c.834 §29; renumbered 455.430 in 1987]
 456.885 [1973 c.834 §24; 1975 c.418 §1; 1979 c.838 §6; subsection (1) renumbered 455.450 in 1987; subsection (2) renumbered 455.990 in 1987]
 456.887 [1975 c.466 §24; renumbered 455.050 in 1987]
 456.890 [1973 c.834 §38; 1975 c.721 §11; 1983 c.676 §30; renumbered 455.230 in 1987]
 456.910 [1974 s.s. c.24 §2; renumbered 455.240 in 1987]
 456.915 [Formerly 456.753; renumbered 455.310 in 1987]
 456.917 [Formerly 456.758; renumbered 455.315 in 1987]
 456.920 [1979 c.838 §3; renumbered 455.320 in 1987]
 456.925 [1979 c.860 §2; renumbered 455.325 in 1987]
 456.930 [1979 c.860 §3; renumbered 455.330 in 1987]
 456.935 [1979 c.860 §4; renumbered 455.335 in 1987]
 456.940 [1979 c.860 §5; renumbered 455.340 in 1987]
 456.945 [1979 c.838 §6; 1979 c.860 §6; renumbered 455.345 in 1987]
 456.950 [1979 c.838 §7; 1979 c.860 §7; renumbered 455.350 in 1987]

PUBLIC STRUCTURES

456.965 Definitions for ORS 456.965 to 456.975. (1) As used in ORS 456.965 to 456.975, unless the context otherwise requires, the words, terms and phrases defined in subsections (2) to (5) of this section shall have the meaning given them in those subsections.

(2) "Architect" means an architect as defined in ORS 671.010 in accordance with the rules and regulations of the State Board of Architect Examiners.

(3) "Certified structure" means a structure designed by a professional engineer or architect as defined in this section.

(4) "Professional engineer" means an engineer as defined in ORS 672.002 in accordance with the rules and regulations of the State Board of Engineering Examiners.

(5) "Structures of public assembly" means structures which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement or awaiting transportation. [Formerly 460.210]

456.970 Application. The provisions of ORS 456.965 to 456.975 shall not be construed to apply to any building having a ground area of 4,000 square feet or less and which is not more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the structure. [Formerly 460.220]

456.975 Certain plans for structures of public assembly to be certified. In order to safeguard life, health and property, all drawings and plans defining the framing systems, shoring systems and foundations for structures of public assembly shall be certified by a qualified professional engineer or qualified architect. The design of the certified structure of public assembly shall provide for resistance to lateral forces, including wind and earthquakes, as well as gravity loads, in accordance with accepted engineering practice and governing building codes. The design shall be accompanied by supporting lateral force calculations. [Formerly 460.230]

