

# Chapter 458

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**PUBLIC HEALTH AND SAFETY**

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## HOUSING IN DISTRESSED URBAN AREAS

**458.005 Definitions for ORS 458.005 to 458.065.** As used in ORS 458.005 and 458.015 to 458.065, unless the context requires otherwise:

(1) "Distressed area" means a primarily residential area of a city designated by a city under ORS 458.015 which, by reason of deterioration, inadequate or improper facilities, the existence of unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multifamily residential units, or any combination of these or similar factors, is detrimental to the safety, health and welfare of the community. Each city that adopts, by resolution or ordinance, ORS 308.450 to 308.481, shall adopt rules specifying the process for determining the boundaries of a distressed area and for distressed area boundary changes. At no time shall the cumulative land area within the boundaries of distressed areas within a city, determined for purposes of ORS 458.005 and 458.015 to 458.065, exceed 20 percent of the total land area of the city.

(2) "Governing body" means the city legislative body having jurisdiction over the property for which an exemption may be applied for under ORS 458.005 and 458.015 to 458.065.

(3) "Single-unit housing unit" means a newly constructed structure having only one dwelling unit that:

(a) Is, or will be, at the time that construction is completed, in conformance with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 196, 197 and 227.

(b) Is constructed on or after January 1, 1990, and is completed within two years after application for exemption is approved under ORS 458.040 or before January 1, 1998, whichever is earlier.

(c) Upon completion, is designed for habitation by one person or one family.

(d) Upon completion, has a market value (land and improvements) of no more than 120 percent, or a lesser percent as adopted by the governing body by resolution, of the median sales price of single family homes located within the city. Prior to January 1 of each year, the governing body shall adopt by resolution the median sales price to be used for purposes of this paragraph during the next calendar year. In determining median sales price the governing body, assisted by the county assessor, shall use the sales data collected under ORS 309.200 in the county in

which the greater portion of the taxable assessed value of the city is located for the period ending the prior November 30 relative to single family homes. In addition, the governing body may use data made available by the real estate and construction or other appropriate industry.

(e)(A) Is not a mobile home, as defined in ORS 801.340, or a floating home, as defined in ORS 830.700.

(B) Notwithstanding subparagraph (A) of this paragraph, a "single-unit housing unit" includes a "manufactured home" as described under ORS 197.307 (5)(a) to (f).

(4) "Structure" does not include the land, nor any site development to the land, as both are defined under ORS 307.010. [1989 c.1051 §15]

**458.010 Legislative findings.** (1) The Legislative Assembly finds it to be in the public interest to stimulate the construction of new single family residences in distressed urban areas in this state in order to improve in those areas the general life quality, to promote residential infill development on vacant or underutilized lots, to encourage homeownership and to reverse declining property values.

(2) The Legislative Assembly further finds and declares that the cities of this state be able to establish and design programs to stimulate the construction of new single family residences in distressed urban areas by means of a limited property tax exemption, as provided under ORS 458.005 and 458.015 to 458.065. [1989 c.1051 §14]

**458.015 Application of law; designation of distressed areas; standards and guidelines.** (1) ORS 458.005 and 458.015 to 458.065 apply to single-unit housing units located within the jurisdiction of a governing body which adopts, by resolution or ordinance, ORS 458.005 and 458.015 to 458.065. Except as provided in subsection (2) of this section, the exemption provided by ORS 458.005 and 458.015 to 458.065 applies only to the tax levy of a governing body which adopts ORS 458.005 and 458.015 to 458.065.

(2) The tax exemption provided under ORS 458.005 and 458.015 to 458.065 shall apply to the tax levy of all taxing units when upon request of the city that has adopted ORS 458.005 and 458.015 to 458.065, the rates of taxation of taxing units whose governing bodies agree by resolution to the policy of providing tax exemptions for single-unit housing units as described in ORS 458.005 and 458.015 to 458.065, when combined with the rate of taxation of the city, equal 51 percent or more of the total combined rate of taxation levied on the property which is tax exempt under ORS 458.005 and 458.015 to 458.065.

(3) The city shall designate one or more distressed areas, located within the territorial boundaries of the city, within which the city proposes to allow exemptions under ORS 458.005 and 458.015 to 458.065.

(4) The city shall adopt standards and guidelines to be utilized in considering applications and making the determinations required under ORS 458.005 and 458.015 to 458.065, including but not limited to:

(a) Standards and guidelines for designating a distressed area, including but not limited to the probability of revitalization in the area without the assistance of the property tax exemption provided under ORS 458.005 and 458.015 to 458.065.

(b) Design elements for construction of the single-unit housing proposed to be exempt.

(c) Extensions of public benefits from the construction of the single-unit housing beyond the period of exemption. [1989 c.1051 §16]

**458.020 Property tax exemption; limitations.** A single-unit housing unit which qualifies for exemption under ORS 458.005 and 458.015 to 458.065 shall be exempt from ad valorem taxation for no more than 10 successive years beginning July 1 of the tax year immediately following the date the application is approved under ORS 458.040, as determined under rules adopted by the Department of Revenue. The exemption provided by this section shall be in addition to any other exemption provided by law for the property. However, the amount of assessed value exempted under this section shall not exceed the real market value of the structure determined as of the date that the property is inspected for purposes of making a determination under ORS 458.040. [1989 c.1051 §17; 1991 c.459 §410]

**458.025 Application; procedures.** (1) Any owner desiring an exemption under ORS 458.005 and 458.015 to 458.065 shall first apply to the city on forms supplied by the city.

(2) The application shall describe the property for which an exemption is requested, set forth the grounds for the exemption and be verified by oath or affirmation of the applicant.

(3) Application shall be made on or before September 1 of the calendar year immediately preceding the first tax year for which exemption is requested, and shall be accompanied by the application fee required under ORS 458.040.

(4) The city may permit the applicant to revise an application made under this section prior to final action by the city. [1989 c.1051 §18; 1991 c.459 §411]

**458.035 Approval criteria.** The city may approve an application made under ORS 458.025 if it finds that:

(1) The proposed construction will be located in a distressed area.

(2) The proposed construction will result in a structure that meets the definition of single-unit housing unit.

(3) The owner has agreed to include in the construction as a part of the single unit the design elements developed under ORS 458.015 (4).

(4) The construction will result in public benefits beyond the period of exemption. [1989 c.1051 §19]

**458.040 Application, approval and denial procedures; filing with assessor; fee.**

(1) The city shall approve or deny an application filed under ORS 458.025 within 180 days after receipt of the application. An application not acted upon within 180 days shall be deemed approved.

(2) Final action upon an application by the city shall be in the form of an ordinance or resolution that shall contain the owner's name and address, a description of the subject single-unit housing unit, either the legal description of the property or the assessor's property account number and the specific conditions upon which the approval of the application is based.

(3) On or before April 1 following approval, the city shall file with the county assessor and send to the owner at the last-known address of the owner a copy of the ordinance or resolution approving or disapproving the application. The copy shall contain or be accompanied by a notice explaining the grounds for possible termination of the exemption prior to the end of the exemption period or thereafter, and the effects of termination. In addition, the city shall file with the county assessor on or before April 1 a document listing the same information otherwise required to be in an ordinance or resolution under subsection (2) of this section, as to each application deemed approved under subsection (1) of this section.

(4) If the application is denied, the city shall state in writing the reasons for denial and send notice of denial to the applicant at the last-known address of the applicant within 10 days after the denial. The notice shall inform the applicant of the right to appeal under ORS 458.060.

(5) The city, after consultation with the county assessor, shall establish an application fee in an amount sufficient to cover the cost to be incurred by the city and the assessor in administering ORS 458.005 and 458.015 to 458.065. The application fee shall

be paid to the city at the time the application for exemption is filed. If the application is approved, the city shall pay the application fee to the county assessor for deposit in the county general fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the city shall retain that portion of the application fee attributable to its own administrative costs and shall refund the balance to the applicant. [1989 c.1051 §20]

**458.045 Exemption termination for failure to meet requirements; procedures.**

(1) Except as provided in ORS 458.050, if, after an application has been approved under ORS 458.040, the city finds that construction of a single-unit housing unit was not completed within two years after the date the application was approved or on or before July 1, 1998, whichever is earlier, or that any provision of ORS 458.005 and 458.015 to 458.065 is not being complied with, or any provision required by the city pursuant to ORS 458.005 and 458.015 and 458.065 is not being complied with, the city shall give notice to the owner, mailed to the owner's last-known address, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination and shall require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

(2) If the owner fails to show cause why the exemption should not be terminated, the city shall adopt an ordinance or resolution stating its findings terminating the exemption. A copy of the ordinance or resolution shall be filed with the county assessor and a copy sent to the owner at the owner's last-known address within 10 days after its adoption. [1989 c.1051 §21; 1991 c.459 §412]

**458.050 Immediate termination; criteria; procedures; additional tax.** (1) If, after application has been approved under ORS 458.040, a declaration defined in ORS 100.005 with respect to the property is presented to the county assessor or tax collector for approval under ORS 100.110, or if the county assessor discovers that the single-unit housing unit or a portion of the single-unit housing unit is changed to a use that is other than single-unit housing:

(a) The exemption granted the single-unit housing or portion under ORS 458.005 and 458.015 to 458.065 shall terminate immediately, without right of notice or appeal;

(b) The property or portion shall be assessed and taxed as other property similarly situated is assessed and taxed; and

(c) Notwithstanding ORS 311.220, there shall be added to the general property tax roll for the tax year next following the presentation or discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the amount of tax due on the property and the amount of the tax that would have been due on the property had it not been exempt under ORS 458.005 and 458.015 to 458.065 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS 458.005 and 458.015 to 458.065.

(2) If, at the time of presentation or discovery, the property is no longer exempt, additional taxes shall be imposed as provided in this section, but the number of years that would otherwise be used to compute the additional taxes shall be reduced by one year for each year that has elapsed since the year the property was last granted exemption.

(3) The assessment and tax rolls shall show potential additional tax liability for each property granted exemption under ORS 458.005 and 458.015 to 458.065.

(4) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [1989 c.1051 §22; 1991 c.459 §413]

**458.060 Review of denial of application; termination; correction of tax roll; additional tax.** (1) Review of a denial of an application under ORS 458.040 shall be as provided by ORS 34.010 to 34.100.

(2) Upon termination of an exemption, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.207 to 311.213 to provide for the assessment and taxation of any property for which exemption was terminated by the city or by a court, in accordance with the finding of the city or the court as to the tax year in which the exemption is first to be terminated. The county assessor shall make such valuation of the property as shall be necessary to permit such correction of the rolls. The owner may appeal any such valuation in the same manner as provided for appeals under ORS 311.207 to 311.213.

(3) Where there has been a failure to comply with ORS 458.045, the property shall become taxable beginning July 1 of the tax year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the month next following the month of correction. If not paid within such period, the additional taxes shall be delinquent on the date they would

normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made. [1989 c.1051 §23; 1991 c.459 §414]

**458.065 Extension of construction period; destruction of property.** Notwithstanding any provision of ORS 458.005 and 458.015 to 458.065:

(1) If the city finds that construction of the single-unit housing unit was not completed by July 1, 1998, due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the city may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

(2) If property granted exemption under ORS 458.005 and 458.015 to 458.065 is destroyed by fire or act of God, or is otherwise no longer capable of occupancy due to circumstances beyond the control of the owner, the exemption shall cease but no additional taxes or penalty shall be imposed under ORS 458.005 and 458.015 to 458.065 upon the property. [1989 c.1051 §24; 1991 c.459 §415]

### COMMUNITY-BASED HOUSING DEVELOPMENT

**458.210 Community development corporations; description.** For the purposes of ORS 456.550 and 458.210 to 458.240, a community development corporation is an organization that:

(1) Is established under the provisions of ORS chapter 65;

(2) Has qualified for tax exempt status under section 501(c)(3) of the Internal Revenue Code;

(3) Has a purpose, stated in the articles of incorporation, to serve low and moderate income people's need for community development and community self-help;

(4) Has a board of directors, of not fewer than five members, that is locally controlled by including 51 percent of the board members from the service area; and

(5) Has a defined geographic service area. [1989 c.1030 §1]

**458.215 Local capacity program.** The Housing and Community Services Department may establish a program to build local capacity to address the:

(1) Housing needs of people, with low or moderate incomes, for home ownership and affordable rental housing;

(2) Problem of abandoned houses;

(3) Need for adequate housing for seasonal farm laborers;

(4) Housing problems for low and moderate income elderly and disabled persons; and

(5) Need to incorporate social service programs and related jobs for low and moderate income persons as a component of community economic revitalization. [1989 c.1030 §2; 1991 c.907 §1]

**458.220 Community development corporation grants and assistance.** In carrying out the provisions of ORS 458.215, the Housing and Community Services Department shall provide:

(1) Initial planning grants to qualified nonprofit community-based organizations, including but not limited to housing authorities and community action agencies, to initiate community development corporations. To qualify under this subsection, an organization shall obtain matching funds or in-kind contributions in an amount determined by rule;

(2) Grants to community development corporations for projects intended to extend the capacity of the corporation to meet the housing needs of the service area;

(3) Grants to community development corporations for projects that combine community-based social service programs with related jobs for low and moderate income persons to promote community economic revitalization; and

(4) Technical assistance to community-based organizations, developing community development corporations and existing community development corporations to carry out the provisions of ORS 456.550 and 458.210 to 458.240. For purposes of ORS 456.550 and 458.210 to 458.240, technical assistance includes but is not limited to training and assisting community development corporations with:

(a) Conducting needs assessments;

(b) Training boards of directors;

(c) Recruiting project development teams;

(d) Determining and applying for available assistance;

(e) Conducting feasibility studies;

(f) Financial planning;

(g) Preparing project budgets;

(h) Proposal writing and project packaging;

(i) Organizational structure and design;

(j) Generating local support; and

(k) Obtaining legal and accounting advice. [1989 c.1030 §3; 1991 c.907 §2]

**458.225 Preference for certain community development corporations.** In carrying out the provisions of ORS 456.550 and 458.210 to 458.240, the Housing and Commu-

nity Services Department shall give preference to a community development corporation that:

(1) Has a defined geographic service area in Multnomah, Washington, Clackamas, Lane, Linn, Douglas, Jackson and Marion Counties which does not include more than 50,000 people;

(2) Has a defined geographic service area in all other counties which does not include more than 75,000 people; and

(3) Can demonstrate support from the community. [1989 c.1030 §4]

**458.235 Rules.** The Housing and Community Services Department shall adopt rules to carry out the provisions of ORS 456.550 and 458.210 to 458.240, including rules to define "persons of low and moderate income." [1989 c.1030 §6]

**458.240 Effect of law on other community development corporations.** Nothing in ORS 456.550 and 458.210 to 458.240 shall limit the authority or powers of community development corporations authorized pursuant to ORS 708.444 and 708.446. [1989 c.1030 §9]

### HOUSING REVITALIZATION PROGRAM

**458.305 Legislative findings.** The Legislative Assembly finds that:

(1) A critical shortage exists of suitable, affordable housing for households with an income below the median income. This shortage is particularly acute with respect to rental housing.

(2) During the past half decade, the supply of rental housing that is affordable to households at or below the median income level has not kept pace with the demand.

(3) The lack of suitable, affordable housing is a barrier to Oregon's development.

(4) It is in the economic and social interest of the state to encourage public agencies and private parties to efficiently expand the supply of housing in Oregon for households at or below the median income level.

(5) The quantity of public resources available to support the expansion and rehabilitation of low and moderate income housing stock is limited. Consequently, it is the policy of this state to attempt to target the use of these resources so that a maximum amount of usable housing product is delivered to Oregon citizens at the minimum cost required for prudent program administration. [1989 c.1016 §1]

**458.310 Housing revitalization program; criteria.** (1) The State Housing

Council shall adopt rules to develop and administer a housing revitalization program for low and moderate income housing.

(a) Applicants for revitalization program funds shall be:

(A) A unit of local government;

(B) A housing authority;

(C) A nonprofit corporation; or

(D) An applicant eligible under subparagraphs (A), (B) or (C) of this paragraph, who contracts with another entity, including a private for-profit corporation.

(b) Housing revitalization projects shall bring into use vacant and abandoned property or rehabilitate substandard property, or both. Eligible project activities include, but are not limited to:

(A) Purchase of property;

(B) Rehabilitation of housing units;

(C) New construction to replace units for which rehabilitation is infeasible;

(D) Mortgage interest subsidies or reduction of principal loan amounts; or

(E) Other activities that have the effect of making properties available to and occupied by persons of lower income, such as loan guarantees.

(c) Projects funded by the housing revitalization program shall be rental or owner-occupied single or multifamily housing.

(d) The housing rehabilitation program shall create affordable housing in which rent levels are no higher than 30 percent of 80 percent of median income levels.

(2) Priority shall be given to projects applied for under subsection (1) of this section that provide opportunities for low and moderate income persons to own their housing units.

(3) Priority among rental housing projects shall be given to projects applied for under subsection (1) of this section that:

(a) Have rent levels no higher than 30 percent of 50 percent of the median income level, or less;

(b) Are owned and operated by a nonprofit or a governmental unit; and

(c) Demonstrate a coordinated local effort to integrate housing, job placement and social services.

(4) In implementing this section and ORS 458.305, the State Housing Council shall work to assure a reasonable geographic distribution of funds among different regions of the state and shall place special emphasis on assuring that funds are available to projects in rural areas. [1989 c.1016 §2]

### LOW INCOME RENTAL HOUSING FUND

**458.350 Low Income Rental Housing Fund established.** (1) The Housing and Community Services Department Low Income Rental Housing Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the Housing and Community Services Department Low Income Rental Housing Fund shall be credited to the fund.

(2) The Housing and Community Services Department Low Income Rental Housing Fund shall consist of all moneys received as described in ORS 696.249 and any interest thereon.

(3) Costs of administering the program described in ORS 458.350, 458.360 and 696.249 to 696.253 shall be paid from the fund. [1989 c.916 §4]

**458.355 Criteria for use of fund.** The Housing and Community Services Department shall adopt criteria for the use of the fund by the agency including criteria that:

(1) Restrict the payment of funds to programs that defray the cost of rent for dwelling units for very low income households.

(2) Exclude a housing authority, established under the provisions of ORS 456.055 to 456.235, from receiving such funds for the purpose of defraying the cost of rents on property owned or actively managed by a housing authority.

(3) Maximize coordination of services at the local level to carry out the provisions of ORS 458.355, 458.365, 696.247, 696.249 and 696.254. [1989 c.916 §6; 1991 c.716 §3]

**458.360 Appropriation.** Moneys in the Housing and Community Services Department Low Income Rental Housing Fund are continuously appropriated to the Housing and Community Services Department to administer for the purposes of providing housing for persons and families of lower income. [1989 c.916 §5]

**458.365 Housing and Community Services Department to administer Low Income Rental Housing Fund law.** The Housing and Community Services Department shall administer the provisions of ORS 458.350 to 458.365 and 696.247 to 696.254. [1989 c.916 §8; 1991 c.716 §5]

### LOW-INCOME HOUSING INVOLVING STATE PROPERTY

**458.405 Legislative findings.** The Legislative Assembly finds that:

(1) Safe, affordable and readily available housing options for low-income individuals

and families do not match the increasing need for such housing in this state.

(2) Much state-owned property is unused and could be made available to increase housing options for low-income individuals and families.

(3) Unused property kept for long periods of time generally decreases in value.

(4) A method to dispose of or transfer such property and have it utilized for a public purpose is in the interests of the people of this state.

(5) It will further the public interest to put unused state-owned real property at the disposal of nonprofit housing providers and housing authorities to address the housing needs of low-income individuals and families in this state. [1989 c.440 §1]

**458.410 Purposes.** The purposes of ORS 458.405 to 458.460 are to provide low-income housing options including but not limited to:

(1) Transitional and emergency housing for low-income individuals and families as long as this type of housing is accompanied by adequate supporting social services; and

(2) Permanent low-income housing units. [1989 c.440 §2]

**458.415 Rules.** In carrying out ORS 458.410 to 458.460, the state shall act by and through its duly constituted board, commission or agency. The state by statute or through its respective board, commission or agency, may provide rules necessary to carry out ORS 458.410 to 458.460. [1989 c.440 §3]

**458.420 Conveyance of certain state real property for low-income housing.** Whenever the state or any state agency possesses or controls real property that might be used to further the public use of providing housing options for low-income individuals and families that is unused for any other public purpose and in which no long-term policy exists to use it for another public purpose, then the state or its agency may sell, convey or lease for a period not to exceed 99 years, all or any part of its interest in the property to a nonprofit organization involved with providing low-income housing options or to a housing authority. The consideration for the transfer may be cash or real property, or both. [1989 c.440 §4]

**458.425 Restriction on conveyance of certain state real property.** Real property needed for a public use other than low-income housing shall not be sold, exchanged, leased or conveyed under the authority of ORS 458.405 to 458.460. [1989 c.440 §5]

**458.430 Authority of state to lease property not owned by state.** (1) The authority to lease property granted by ORS

458.420 includes authority to lease property not owned or controlled by the state at the time of entering the lease. Such lease shall be conditioned upon the subsequent acquisition of the interest covered by the lease.

(2) Any lease of state real property to be used for the purposes of ORS 458.405 to 458.460 exceeding five years shall be approved in advance by the Department of General Services. [1989 c.440 §6]

**458.440 Authorization to lease; terms and conditions.** Every lease entered into pursuant to ORS 458.405 to 458.460 shall be authorized by order of the state agency executing the lease and shall provide such terms and conditions as may be fixed by the government body executing the lease. [1989 c.440 §7]

**458.445 Authority to relinquish title to property; purpose.** The state is hereby granted express power to relinquish the title to any of its property not needed for another public purpose to the United States Government or any other governmental body, political subdivision, housing authority or nonprofit organization involved with providing low-income housing, in order to promote the public purpose of increasing housing options for low-income individuals and families in this state. [1989 c.440 §8]

**458.450 Approval required by governing body where property located.** Before the transfer of any state-owned real property under the provisions of ORS 458.405 to 458.460 to a housing authority or a nonprofit organization involved with providing low-income housing to individuals and families in this state, the state or its agency, board or commission shall obtain approval of the governing body in which such property is located. [1989 c.440 §9]

**458.460 Bidding procedure for multiple applicants.** In the event that more than one housing authority or appropriate nonprofit organization is interested in a building available for transfer under ORS 458.405 to 458.460, the state or its agency shall conduct a bidding process that takes into account:

- (1) The entity most capable of delivering services and housing options to conform with the purpose of ORS 458.405 to 458.460;
- (2) The fiduciary obligation of the state and its agencies to bondholders; and
- (3) Financial prudence. [1989 c.440 §10]

## COMMUNITY SERVICES PROGRAMS

**458.505 Community action agency network as delivery system for federal antipoverty programs' duties of Housing and Community Services Department.** (1)

The community action agency network, established initially under the federal Economic Opportunity Act of 1964, shall be the delivery system for federal antipoverty programs in Oregon, including the Community Services Block Grant, Low Income Energy Assistance Program, Department of Energy Weatherization Program and such others as may become available.

(2) Funds for such programs shall be distributed to the community action agencies by the department with the advice of the Community Action Directors of Oregon.

(3) In areas not served by a community action agency, funds other than federal community services funds may be distributed to and administered by organizations that are found by the department to serve the antipoverty purpose of the community action agency network.

(4) In addition to complying with all applicable requirements of federal law, a community action agency shall:

(a) Be an office, division or agency of the designating political subdivision or a not for profit organization in compliance with ORS chapter 65.

(b) Have a community action board of at least nine but no more than 33 members, constituted so that:

(A) One-third of the members of the board are elected public officials currently serving or their designees. If the number of elected officials reasonably available and willing to serve is less than one-third of the membership, membership of appointed public officials may be counted as meeting the one-third requirement;

(B) At least one-third of the members are persons chosen through democratic selection procedures adequate to assure that they are representatives of the poor in the area served; and

(C) The remainder of the members are officials or members of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

(c) If the agency is a private not for profit organization, be governed by the Community Action Board. The board shall have all duties, responsibilities and powers normally associated with such boards, including, but not limited to:

(A) Selection, appointment and dismissal of the executive director of the agency;

(B) Approval of all contracts, grant applications and budgets and operational policies of the agency;

(C) Evaluation of programs; and

(D) Securing an annual audit of the agency.

(d) If the organization is an office, division or agency of a political subdivision, be administered by the board which shall provide for the operation of the agency and be directly responsible to the governing board of the political subdivision. The administering board at a minimum, shall:

- (A) Review and approve program policy;
- (B) Be involved in and consulted on the hiring and firing of the agency director;
- (C) Monitor and evaluate program effectiveness;
- (D) Insure the effectiveness of community involvement in the planning process; and
- (E) Assume all duties delegated to it by the governing board.

(e) Have a clearly defined, specified service area. Community action service areas shall not overlap.

(f) Have an accounting system which meets generally accepted accounting principles and be so certified by an independent certified accountant.

(g) Provide assurances against the use of government funds for political activity by the community action agency.

(h) Provide assurances that no person shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through the community action program.

(i) Provide assurances the community action agency shall comply with any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified individual with disabilities as provided in section 504 of the Rehabilitation Act of 1973.

(5) For the purposes of this section, the Oregon Human Development Corporation is eligible to receive federal community service funds and low-income energy assistance funds.

(6) The State Community Services shall:

- (a) Administer federal and state antipov-erty programs.
- (b) Apply for all available antipov-erty funds on behalf of eligible entities as defined in this section.
- (c) In conjunction with the Community Action Directors of Oregon, develop a collaborative role in advocating for, and ad-

ressing the needs of, all low income Oregonians.

(d) Biennially produce and make available to the public a status report on efforts by it and state agencies to reduce the incidence of poverty in Oregon. This report shall contain figures regarding the numbers and types of persons living in poverty in Oregon.

(e) On a regular basis provide information to the Community Action Directors of Oregon on the activities and expenditures of State Community Services.

(f) As resources are available, provide resources for technical assistance, training and program assistance to eligible entities.

(g) As resources are available, provide resources for the training and technical assistance needs of the Community Action Directors of Oregon.

(h) Conduct a planning process to meet the needs of low income people in Oregon. That process shall fully integrate the Oregon Human Development Corporation into the antipov-erty delivery system. The planning process shall include development of a plan for minimum level of services and funding for low income migrant and seasonal farm workers from the antipov-erty programs administered by the agency.

(i) Limit its administrative budget in an effort to maximize the availability of anti-pov-erty federal and state funds for expenditures by local eligible entities. [Formerly 184.802]

*Note:* 458.505 to 458.515 were added to and made a part of 456.515 to 456.725 by legislative action. See *Pre- face to Oregon Revised Statutes* for further explanation.

**458.510 Energy Crisis Trust Fund.** (1) There is established an Energy Crisis Trust Fund, separate and distinct from the General Fund, in the State Treasury. As permitted by federal court decisions, federal statutory requirements and administrative decisions, funds from the Petroleum Violation Escrow Fund made available to the department for the Energy Crisis Trust Fund and any gift, grant, appropriation or donation for the purpose of the Energy Crisis Trust Fund shall be deposited by the State Treasurer and credited to the Energy Crisis Trust Fund. The State Treasurer shall credit monthly to the fund any interest or other income derived from the fund or the investing of the fund. All moneys in the fund are continuously appropriated to the department for the purpose of providing low income home energy assistance.

(2) If moneys are donated to the fund for low income energy assistance by a home heating fuel or energy service provider that allows its customers to contribute to the program, that money so donated shall be re-

distributed through the Energy Crisis Trust Fund only within the service area of that home heating fuel or energy service provider.

(3) The department shall contract with a private nonprofit or public organization or agency for the distribution of moneys in the Energy Crisis Trust Fund. The department or the contractor shall administer and distribute the funds in accordance with:

(a) The Low Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

(b) The Petroleum Violation Escrow Fund regulations; and

(c) The recommendations of the advisory committee established in ORS 458.515. [Formerly 184.803]

Note: See note under 458.505.

**458.515 Advisory committee.** (1) The director shall appoint an advisory committee whose members shall be appointed based on a demonstrated interest in and knowledge of low income energy assistance programs and broadly representative of organizations, fuel providers and consumer groups that represent low income persons, particularly elderly and disabled persons and have special qualifications with respect to solving the energy consumption problems of low income persons.

(2) The committee shall meet not less than twice a year to advise and assist the department in regard to rules, policies and programs regarding low income energy assistance programs provided for under ORS 458.510. [Formerly 184.804]

Note: See note under 458.505.

## OREGON HOUSING FUND

**458.600 Policy and intent.** It is declared to be the policy and intent of the Legislative Assembly that the State of Oregon:

(1) Shall assist in improving the quality of life of homeless persons within this state by insuring the availability of an appropriate range of residential opportunities.

(2) Shall seek to reduce the number of homeless people in this state. [1991 c.736 §1]

**458.605 Findings.** The Legislative Assembly finds that:

(1) The number of people who are homeless is on the rise in this state, as across the nation.

(2) Homeless people can be found in every county and city in this state.

(3) Family members, including children, represent the majority of the increase in the homeless population.

(4) Facilitating housing for families with children reduces the need for other state

services such as foster care and child abuse treatment.

(5) Facilitating shelter so that homeless people do not have to live outdoors or in cars reduces weather-related illness, thereby reducing health care costs and services required for this population.

(6) Developing affordable housing in Oregon is necessary to maintain the quality of life, create jobs and to further economic development. [1991 c.736 §2; subsection (6) enacted as 1991 c.740 §1]

**458.610 Definitions for ORS 458.600 to 458.650.** For purposes of ORS 458.600 to 458.650:

(1) "Council" means the State Housing Council established in ORS 456.567.

(2) "Disabled" means those persons described as such by the Fair Housing Amendments Act of 1988.

(3) "Low income" means individuals or households that receive more than 50 percent but less than 80 percent of the area median income as determined by the council based on information from the United States Department of Housing and Urban Development.

(4) "Organization" means a:

(a) Nonprofit corporation established under ORS chapter 65;

(b) Housing authority established under ORS 456.055 to 456.230; or

(c) Local government as defined in ORS 197.015.

(5) "Very low income" means individuals or households which receive less than 50 percent of the area median income as determined by the council based on information from the United States Department of Housing and Urban Development.

(6) "Department" means the Housing and Community Services Department established in ORS 456.555. [1991 c.740 §2]

**458.620 Oregon Housing Fund created; Housing Development and Guarantee Account and Emergency Housing Account created.** (1) There is created, separate and distinct from the General Fund of the State Treasury, the Oregon Housing Fund which shall consist of two separate revolving accounts, the Housing Development and Guarantee Account and the Emergency Housing Account.

(2) All earnings on investment of moneys in the Housing Development and Guarantee Account shall accrue to that account. All earnings on investment of moneys in the Emergency Housing Account shall accrue to that account.

(3) Moneys in the Housing Development and Guarantee Account are appropriated continuously to the Housing and Community Services Department to carry out the provisions of ORS 458.625 and 458.630. Moneys in the Emergency Housing Account are appropriated continuously to the Housing and Community Services Department to carry out the provisions of ORS 458.650.

(4) Moneys deposited in the Oregon Housing Fund pursuant to subsection (5) of this section shall be credited to the Housing Development and Guarantee Account.

(5) Individuals and corporations, both for profit or nonprofit, may make monetary contributions to the Housing Development and Guarantee Account. [1991 c.740 §§3, 8]

**458.625 Disbursement of funds in Housing Development Guarantee Account; grant preferences.** (1) The department shall disburse the revenue earned from investment of the principal in the Housing Development and Guarantee Account to expand this state's supply of housing for low and very low income families and individuals, including, but not limited to, housing for persons over 65 years of age, disabled persons, farm workers and Native Americans. For purposes of this section and ORS 458.630, "account" means the Housing Development and Guarantee Account. The council shall have a policy of distributing funds statewide while concentrating funds in those areas of the state with the greatest need, as determined by the council, for low and very low income housing.

(2) Revenue earnings from investment of the principal in the account shall be disbursed as grants for any or all of the following purposes:

(a) To organizations as defined in ORS 458.610 and to for-profit business entities to construct new housing or to acquire or rehabilitate existing structures, or both, for housing for persons of low or very low income, or both;

(b) To provide nonprofit organizations, as set forth in ORS 458.210 to 458.240, technical assistance or predevelopment costs, or both. Predevelopment costs include, but are not limited to, site acquisition, architectural services and project consultants. Predevelopment costs do not include costs described in paragraph (c) of this subsection;

(c) For costs to develop nonprofit organizations that show sufficient evidence of having strong community support and a strong likelihood of producing low or very low income housing. No account revenue shall be used by an organization for its general operations;

(d) To match public and private moneys available from other sources for purposes of production of low or very low income housing; or

(e) For purposes of administration of the account, not to exceed five percent of the revenue.

(3) The council, in developing policy, shall give preference in making grants to those entities that would propose to:

(a) Provide the greatest number of low and very low income housing units constructed, acquired or rehabilitated for the amount of account money expended by matching account funds with other grant, loan or eligible in-kind contributions;

(b) Insure the longest use for the units as low or very low income housing units; or

(c) Include social services to occupants of the proposed housing, including but not limited to, programs that address home health care, mental health care, alcohol and drug treatment and post-treatment care, child care and case management.

(4) At least 75 percent of the revenue derived from the account in any calendar year shall be used to construct, acquire or rehabilitate housing for very low income persons. No more than 25 percent of the revenue derived from the account in any calendar year shall be used to construct, acquire or rehabilitate housing for low income households. [1991 c.740 §5]

**458.630 Use of funds in Housing Development and Guarantee Account.** (1) The principal that is credited to the Housing Development and Guarantee Account under ORS 458.620 (3) shall be held and used by the Housing and Community Services Department as the Guarantee Fund. The fund shall be used to guarantee repayment of loans made to finance the construction, acquisition or rehabilitation of low and very low income housing. Loans that are guaranteed by the fund shall be reviewed by the council to assure that they meet prudent underwriting standards.

(2) The department shall not issue any loan guarantee under this section that guarantees the repayment of more than 25 percent of the original principal balance of any loan.

(3) At no time shall the aggregate dollar total of all loan guarantees issued by the department under this section exceed the total amount then in the Guarantee Fund established under subsection (1) of this section. Whenever the fund principal reaches a five percent loss, the interest on the fund shall be deposited only to the principal account

until the full amount of the fund principal is realized.

(4) In developing policy for loan guarantees under this section, the council shall give preference to loans for the construction, development, acquisition or rehabilitation of low or very low income housing that would:

(a) Provide the greatest number of low and very low income housing units constructed, acquired or rehabilitated for the amount of guarantee allowed;

(b) Insure the longest possible use for the units as low or very low income housing units. Pursuant to this end, the State Housing Council may adopt a formula which optimizes the interests of the lender and the developer and the working life of the low and very low income units; or

(c) Include a program of services for the occupants of the proposed housing including, but not limited to, programs that address home health care, mental health services, alcohol and drug treatment and post-treatment care, child care and case management.

(5) At least 75 percent of the Guarantee Fund established under subsection (1) of this section shall be used to guarantee loans made to finance the construction, development, acquisition or rehabilitation of housing for very low income households. No more than 25 percent of the Guarantee Fund shall be used to guarantee loans made to finance the construction, development, acquisition or rehabilitation of housing for low income households. [1991 c.740 §6]

**458.650 Disbursement of funds in Emergency Housing Account; grant policies.** (1) The Emergency Housing Account shall be administered by the Housing and Community Services Department to assist homeless persons and those persons who are at risk of becoming homeless. For purposes of this section, "account" means the Emergency Housing Account.

(2) The council shall develop policy for giving grants to organizations that shall use the funds to provide to low and very low income persons, including but not limited to, persons more than 65 years of age, disabled persons, farm workers and Native Americans:

(a) Emergency shelters and attendant services;

(b) Transitional housing services designed to assist persons to make the transition from homelessness to permanent housing and economic independence;

(c) Supportive housing services to enable persons to continue living in their own homes or to provide in-home services for such persons for whom suitable programs do not exist in their geographic area;

(d) Programs that provide emergency payment of home payments, rents or utilities; or

(e) Some or all of the needs described in paragraphs (a) to (d) of this subsection.

(3)(a) The council shall require as a condition of awarding a grant that the organization demonstrate to the satisfaction of the council that the organization has the capacity to deliver any service proposed by the organization.

(b) Any funds granted under this section shall not be used to replace existing funds. Funds granted under this section may be used to supplement existing funds. An organization may use funds to support existing programs or to establish new programs.

(c) The council, by policy, shall give preference in granting funds to those organizations that coordinate services with those programs established under ORS 458.625.

(4) The department may expend for administration of the account no more than five percent of the account appropriation. [1991 c.740 §7]

