

**A-Engrossed**  
**House Bill 2639**

Ordered by the House April 17  
Including House Amendments dated April 17

Sponsored by Representative KOTEK; Representatives HARKER, HUFFMAN (Presession filed.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Redefines "source of income" for purposes of prohibiting discrimination in selling, renting or leasing real property. Creates exceptions.

Directs Housing and Community Services Department to develop Housing Choice Landlord Guarantee Program to mitigate damages to dwelling units of landlords caused by tenants receiving tenant-based assistance under federal Housing Choice Voucher Program.

Creates Housing Choice Landlord Guarantee Program Fund and continuously appropriates moneys in fund to department to carry out Housing Choice Landlord Guarantee Program.

**Requires local housing authorities to report annually to department regarding information provided to Secretary of Housing and Urban Development regarding participation in Housing Choice Voucher Program. Directs local housing authorities to annually review internal procedures and processes and to facilitate participation of landlords in Housing Choice Voucher Program. Creates Statewide Housing Choice Advisory Committee.**

Directs department to establish and administer Stable Rental Housing Program to make grants to qualifying organizations to provide rental and financial assistance to persons at risk of experiencing homelessness or persons requiring assistance to maintain housing stability.

Creates Stable Rental Housing Account and continuously appropriates moneys in account to department to carry out Stable Rental Housing Program.

Directs department and State Housing Council to cooperate with local housing authorities to obtain federal approval and waivers of requirements under certain federal rent subsidy assistance programs.

Becomes operative July 1, 2014.

**A BILL FOR AN ACT**

1  
2 Relating to housing; creating new provisions; amending ORS 456.561 and 659A.421; and appropriating  
3 money.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 659A.421 is amended to read:

6 659A.421. (1) As used in this section:

7 (a) "Dwelling" means:

8 (A) A building or structure, or portion of a building or structure, that is occupied, or designed  
9 or intended for occupancy, as a residence by one or more families; or

10 (B) Vacant land offered for sale or lease for the construction or location of a building or  
11 structure, or portion of a building or structure, that is occupied, or designed or intended for occu-  
12 pancy, as a residence by one or more families.

13 (b) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee,  
14 prospective lessee, buyer or prospective buyer.

15 (c) "Real property" includes a dwelling.

16 (d)(A) "Source of income" [*does not include*] **includes** federal rent subsidy payments under 42  
17 U.S.C. 1437f[,], **and any other local, state or federal housing assistance.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **(B) “Source of income” does not include** income derived from a specific occupation or income  
2 derived in an illegal manner.

3       (2) A person may not, because of the race, color, religion, sex, sexual orientation, national ori-  
4 gin, marital status, familial status or source of income of any person:

5       (a) Refuse to sell, lease or rent any real property to a purchaser. **This paragraph does not**  
6 **prevent a person from refusing to lease or rent real property to a prospective renter or**  
7 **prospective lessee:**

8       **(A) Based upon the past conduct of a prospective renter or prospective lessee provided**  
9 **the refusal to lease or rent based on past conduct is consistent with local, state and federal**  
10 **law, including but not limited to fair housing laws; or**

11       **(B) Based upon the prospective renter’s or prospective lessee’s inability to pay rent,**  
12 **taking into account the value of the prospective renter’s or prospective lessee’s local, state**  
13 **and federal housing assistance, provided the refusal to lease or rent based on inability to pay**  
14 **rent is consistent with local, state and federal law, including but not limited to fair housing**  
15 **laws.**

16       (b) Expel a purchaser from any real property.

17       (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms,  
18 conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the  
19 furnishing of any facilities or services in connection therewith.

20       (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

21       (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,  
22 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing  
23 of real property that indicates any preference, limitation, specification or unlawful discrimination  
24 based on race, color, religion, sex, sexual orientation, national origin, marital status, familial status  
25 or source of income.

26       (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that  
27 violates this section.

28       (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of,  
29 or on account of the person having exercised or enjoyed or having aided or encouraged any other  
30 person in the exercise or enjoyment of, any right granted or protected by this section.

31       (h) Deny access to, or membership or participation in, any multiple listing service, real estate  
32 brokers’ organization or other service, organization or facility relating to the business of selling or  
33 renting dwellings, or discriminate against any person in the terms or conditions of the access,  
34 membership or participation.

35       (i) Represent to a person that a dwelling is not available for inspection, sale or rental when the  
36 dwelling in fact is available for inspection, sale or rental.

37       (j) Otherwise make unavailable or deny a dwelling to a person.

38       (3)(a) A person whose business includes engaging in residential real estate related transactions  
39 may not discriminate against any person in making a transaction available, or in the terms or con-  
40 ditions of the transaction, because of race, color, religion, sex, sexual orientation, national origin,  
41 marital status, familial status or source of income.

42       (b) As used in this subsection, “residential real estate related transaction” means any of the  
43 following:

44       (A) The making or purchasing of loans or providing other financial assistance:

45       (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

1 (ii) Secured by residential real estate; or

2 (B) The selling, brokering or appraising of residential real property.

3 (4) A real estate licensee may not accept or retain a listing of real property for sale, lease or  
4 rental with an understanding that a purchaser may be discriminated against with respect to the sale,  
5 rental or lease thereof because of race, color, religion, sex, sexual orientation, national origin,  
6 marital status, familial status or source of income.

7 (5) A person may not, for profit, induce or attempt to induce any other person to sell or rent  
8 any dwelling by representations regarding the entry or prospective entry into the neighborhood of  
9 a person or persons of a particular race, color, religion, sex, sexual orientation, national origin,  
10 marital status, familial status or source of income.

11 (6) This section does not apply with respect to sex distinction, discrimination or restriction if  
12 the real property involved is such that the application of this section would necessarily result in  
13 common use of bath or bedroom facilities by unrelated persons of opposite sex.

14 (7)(a) This section does not apply to familial status distinction, discrimination or restriction with  
15 respect to housing for older persons.

16 (b) As used in this subsection, "housing for older persons" means housing:

17 (A) Provided under any state or federal program that is specifically designed and operated to  
18 assist elderly persons, as defined by the state or federal program;

19 (B) Intended for, and solely occupied by, persons 62 years of age or older; or

20 (C) Intended and operated for occupancy by at least one person 55 years of age or older per  
21 unit. Housing qualifies as housing for older persons under this subparagraph if:

22 (i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or  
23 older per unit; and

24 (ii) Policies and procedures that demonstrate an intent by the owner or manager to provide  
25 housing for persons 55 years of age or older are published and adhered to.

26 (c) Housing does not fail to meet the requirements for housing for older persons if:

27 (A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of  
28 paragraph (b)(B) or (C) of this subsection. However, new occupants of the housing shall meet the  
29 age requirements of paragraph (b)(B) or (C) of this subsection; or

30 (B) The housing includes unoccupied units that are reserved for occupancy by persons who meet  
31 the age requirements of paragraph (b)(B) or (C) of this subsection.

32 (d) Nothing in this section limits the applicability of any reasonable local, state or federal re-  
33 strictions regarding the maximum number of occupants permitted to occupy a dwelling.

34 (8) The provisions of subsection (2)(a) to (d) and (f) of this section that prohibit actions based  
35 upon sex, sexual orientation or familial status do not apply to the renting of space within a single-  
36 family residence if the owner actually maintains and occupies the residence as the owner's primary  
37 residence and all occupants share some common space within the residence.

38 (9) Any violation of this section is an unlawful practice.

39 **SECTION 2. As used in sections 2 to 6 of this 2013 Act:**

40 (1) **"Housing Choice Voucher Program" means the federal tenant-based assistance pro-**  
41 **gram established under 42 U.S.C. 1437f(o).**

42 (2) **"Landlord" means an owner of a dwelling unit that has entered into an agreement**  
43 **with a local housing authority to receive tenant-based assistance payments under the Hous-**  
44 **ing Choice Voucher Program and that has entered into a rental or lease agreement with a**  
45 **tenant determined to be eligible to receive assistance under the Housing Choice Voucher**

1 **Program.**

2 (3) **“Local housing authority” means a housing authority that has entered into a contract**  
3 **with the Secretary of Housing and Urban Development of the United States pursuant to**  
4 **which the housing authority is authorized to make tenant-based assistance payments to**  
5 **landlords within a designated county or area of operation under the Housing Choice Voucher**  
6 **Program.**

7 (4) **“Tenant” means an individual or a family who is determined to be eligible to receive**  
8 **tenant-based assistance payments under the Housing Choice Voucher Program and who has**  
9 **entered into a rental or lease agreement with a landlord.**

10 **SECTION 3. (1) The Housing and Community Services Department shall develop and im-**  
11 **plement the Housing Choice Landlord Guarantee Program for the purpose of providing fi-**  
12 **nanical assistance to landlords to mitigate damages caused by tenants as a result of**  
13 **occupancy under the Housing Choice Voucher Program.**

14 (2) **Landlords that are eligible for assistance under the Housing Choice Landlord Guar-**  
15 **antee Program must obtain a judgment against the tenant in either the small claims de-**  
16 **partment of a circuit court or a circuit court for the county in which the property is located.**  
17 **Assistance is limited to reimbursement for only those amounts in the judgment that are**  
18 **related to property damage, unpaid rent or other damages:**

19 (a) **Caused as a result of the tenant’s occupancy under the Housing Choice Voucher**  
20 **Program;**

21 (b) **That exceed normal wear and tear; and**

22 (c) **That are in excess of \$500 but not more than \$5,000 per tenancy.**

23 (3) **A landlord must submit a claim for assistance to the department within one year of**  
24 **obtaining a judgment against a tenant pursuant to subsection (2) of this section.**

25 (4) **The department may contract with a public or private provider for the administration**  
26 **of the Housing Choice Landlord Guarantee Program. The department is not subject to the**  
27 **provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of this**  
28 **subsection. The department shall establish by rule procedures for inviting proposals and**  
29 **awarding contracts under this subsection.**

30 (5) **The department shall adopt rules to implement the provisions of this section, includ-**  
31 **ing but not limited to prescribing additional qualifications and requirements that must be**  
32 **met by landlords and the form of application that must be submitted to the department to**  
33 **receive assistance under the program.**

34 **SECTION 4. (1) When a landlord is determined to be eligible to receive assistance under**  
35 **sections 2 to 6 of this 2013 Act, the Housing and Community Services Department shall enter**  
36 **into a reasonable repayment agreement with the responsible tenant that provides for repay-**  
37 **ment by the tenant to the department of the full or a partial amount of the assistance paid**  
38 **to the landlord.**

39 (2)(a) **Consistent with the requirements of federal law, all local housing authorities that**  
40 **participate in the Housing Choice Voucher Program shall, upon written notice from the de-**  
41 **partment that a tenant has failed to repay the amount required under subsection (1) of this**  
42 **section, be prohibited from approving a dwelling unit for the responsible tenant, and may not**  
43 **enter into a contract with a landlord that provides for occupancy of the landlord’s dwelling**  
44 **unit by that tenant at any future time, regardless of the area of operation of the local**  
45 **housing authority wherein the dwelling unit that sustained the damages was located.**

1       **(b) Notwithstanding paragraph (a) of this subsection, this subsection does not apply when**  
2 **the tenant has made or is making a good faith effort to comply with the repayment agree-**  
3 **ment.**

4       **(3) The department shall, in accordance with ORS chapter 183, provide an opportunity for**  
5 **the tenant to contest the department's determination that the tenant has failed to repay**  
6 **amounts due under a repayment agreement or that the tenant has not made or is not mak-**  
7 **ing a good faith effort to comply with the repayment agreement. The department shall serve**  
8 **a notice of noncompliance upon the tenant in accordance with ORS 183.415 that states:**

9       **(a) The amount remaining unpaid by the tenant under the repayment agreement; and**

10       **(b) That the department may prohibit all local housing authorities, regardless of the area**  
11 **of operation of the local housing authority wherein the dwelling unit that sustained the**  
12 **damages was located, from approving a dwelling unit for the tenant in the future and from**  
13 **entering into a contract with a landlord that provides for the tenant's occupancy of the**  
14 **landlord's dwelling unit by that tenant at any future time.**

15       **(4) The department shall waive the requirements of this section for good cause as set**  
16 **forth in rules adopted by the department.**

17       **SECTION 5. (1) There is created within the State Treasury, separate and distinct from**  
18 **the General Fund, the Housing Choice Landlord Guarantee Program Fund. Interest earned**  
19 **by the Housing Choice Landlord Guarantee Program Fund shall be credited to the fund.**

20       **(2) Moneys in the Housing Choice Landlord Guarantee Program Fund shall consist of:**

21       **(a) Amounts donated to the fund;**

22       **(b) Amounts appropriated or otherwise transferred to the fund by the Legislative As-**  
23 **sembly;**

24       **(c) Investment earnings received on moneys in the fund; and**

25       **(d) Other amounts deposited in the fund from any source.**

26       **(3) Moneys in the fund are continuously appropriated to the Housing and Community**  
27 **Services Department to carry out the provisions of sections 2 to 6 of this 2013 Act.**

28       **(4) The department may use moneys in the fund to pay the administrative costs associ-**  
29 **ated with the fund and with processing applications, making payments to landlords and ad-**  
30 **ministering repayment agreements under sections 2 to 6 of this 2013 Act.**

31       **SECTION 6. (1) Local housing authorities shall report annually to the Housing and**  
32 **Community Services Department regarding information required to be provided to the Sec-**  
33 **retary of Housing and Urban Development regarding each local housing authority's partic-**  
34 **ipation in the Housing Choice Voucher Program.**

35       **(2) Local housing authorities shall annually review internal procedures and processes so**  
36 **as to coordinate the length of the rental and lease terms with market standards for the**  
37 **purpose of achieving the maximum use and benefit in the best interests of tenants and**  
38 **landlords from tenant-based assistance payments under the Housing Choice Voucher Pro-**  
39 **gram.**

40       **(3) Consistent with federal law, local housing authorities shall facilitate participation of**  
41 **landlords in the Housing Choice Voucher Program by:**

42       **(a) Ensuring timely inspection of dwelling units and prompt processing of tenant appli-**  
43 **cations and tenant-based assistance payments to landlords;**

44       **(b) Establishing leases with terms that match the lease length that is standard and cus-**  
45 **tomary for the dwelling units involved;**

1 (c) Assisting tenants and landlords with service referrals; and

2 (d) Establishing a process that allows landlords to provide regular input to local housing  
3 authorities.

4 (4)(a) There is created the Statewide Housing Choice Advisory Committee to be appointed  
5 by the Director of the Housing and Community Services Department. The director shall have  
6 discretion to determine the number of committee members and the duration of membership.  
7 The committee membership must be geographically representative of all regions of this state  
8 and shall include an equal number of representatives for each of the following:

9 (A) Local housing authorities and their representatives;

10 (B) Landlords of single and multiple dwelling units and their advocates; and

11 (C) Tenants and their advocates.

12 (b) The committee shall:

13 (A) Advise the department with respect to matters of interest and concern regarding the  
14 Housing Choice Voucher Program;

15 (B) Discuss and share best practices for maximizing participation by landlords and ten-  
16 ants in the Housing Choice Voucher Program; and

17 (C) Develop strategies and outcome measures for gauging the effectiveness of the Hous-  
18 ing Choice Voucher Program.

19 (c) The committee shall prepare and submit a report to the committees of the Legislative  
20 Assembly that have authority over the subject area of housing on the date of the convening  
21 of each regular session of the Legislative Assembly regarding participation in and the effec-  
22 tiveness of the Housing Choice Voucher Program in this state.

23 **SECTION 7.** (1) The Housing and Community Services Department shall establish and  
24 administer the Stable Rental Housing Program to provide rental assistance to persons re-  
25 quiring assistance to achieve or maintain housing stability.

26 (2) Subject to the approval of the State Housing Council, the department shall make  
27 grants from the Stable Rental Housing Account created in section 8 of this 2013 Act to or-  
28 ganizations as defined in ORS 458.610 for purposes of providing:

29 (a) Rental assistance to persons of low income and very low income, as those terms are  
30 defined in ORS 458.610, who are also identified as being at risk of experiencing homelessness  
31 or who require rental assistance to maintain housing stability.

32 (b) Financial assistance with expenses found to support housing stability, including but  
33 not limited to application fees, security deposits, move-in expenses, past-due rent, utility  
34 payments, transportation expenses, essential furnishings and any other expenses as pre-  
35 scribed by the department by rule.

36 (c) Support services to assist persons of low income and very low income who are at risk  
37 of experiencing homelessness or who require rental assistance to maintain housing stability,  
38 and the administrative costs of providing the services, to access housing for the purpose of  
39 achieving or maintaining housing stability.

40 (3) The department shall, in consultation with and subject to the approval of the State  
41 Housing Council, adopt rules for determining the eligibility of organizations to receive grants  
42 under this section that must, at a minimum, include the requirement that the organization  
43 demonstrate it has the capacity to deliver the assistance and services proposed by the or-  
44 ganization and to measure and report on outcomes related to homelessness and housing  
45 stability.

1 (4) The department may contract with a public or private provider for the administration  
2 of the Stable Rental Housing Program under this section. The department is not subject to  
3 the provisions of ORS chapter 279A or 279B in awarding a contract under the provisions of  
4 this subsection. The department shall establish by rule procedures for inviting proposals and  
5 awarding contracts under this subsection.

6 (5) The department shall adopt rules to implement the provisions of this section.

7 **SECTION 8.** (1) There is created within the State Treasury, separate and distinct from  
8 the General Fund, the Stable Rental Housing Account. Interest earned by the Stable Rental  
9 Housing Account shall be credited to the account.

10 (2) Moneys in the Stable Rental Housing Account shall consist of:

11 (a) Amounts donated to the account;

12 (b) Amounts appropriated or otherwise transferred to the account by the Legislative  
13 Assembly;

14 (c) Investment earnings received on moneys in the account; and

15 (d) Other amounts deposited in the account from any source.

16 (3) Moneys in the account are continuously appropriated to the Housing and Community  
17 Services Department to develop and implement the Stable Rental Housing Program under  
18 section 7 of this 2013 Act.

19 (4) The department may use moneys in the account to pay the administrative costs as-  
20 sociated with the account and with making grants under section 7 of this 2013 Act.

21 **SECTION 9.** The Housing and Community Services Department shall prepare and submit  
22 a report, after review and approval by the State Housing Council, regarding the status and  
23 outcomes of the Stable Rental Housing Program established under section 7 of this 2013 Act  
24 to the committees of the Legislative Assembly that have authority over the subject area of  
25 housing on the date of the convening of the 2015 regular session of the Legislative Assembly.

26 **SECTION 10.** ORS 456.561 is amended to read:

27 456.561. (1) The Housing and Community Services Department may effect loans, grants and other  
28 funding awards to accomplish department housing programs, subject to any requirement under this  
29 section for review and approval by the State Housing Council of proposals for loans, grants or other  
30 funding awards.

31 (2) The department shall submit a loan, grant or other funding award proposal arising under  
32 ORS 456.515 to 456.725 [*programs*] and section 7 of this 2013 Act to the council for review if the  
33 proposal is for:

34 (a) A housing loan on property that has a purchase price in excess of an applicable threshold  
35 property purchase price established by rule under ORS 456.555 (9); [*or*]

36 (b) A housing grant or other housing funding award in excess of an applicable threshold amount  
37 established by rule under ORS 456.555 (10); or

38 (c) A grant made pursuant to the Stable Rental Housing Program established under  
39 section 7 of this 2013 Act.

40 (3) The council shall review each loan, grant or other funding award proposal submitted by the  
41 department under this section and approve or disapprove the loan, grant or other funding award  
42 proposal.

43 (4) Council review of loan, grant or other funding award proposals under this section shall be  
44 held at a public hearing of the council. The council meeting notice required by ORS 192.640 shall  
45 include notice of the loan, grant or other funding award proposal review, the names of the appli-

1 cants and the subject of the loan, grant or funding award proposal. The council shall provide notice  
2 of a loan, grant or other funding award proposal review to the loan, grant or other funding award  
3 applicant not less than five days before the review hearing.

4 **SECTION 11.** The Housing and Community Services Department and State Housing  
5 Council shall cooperate with and assist local housing authorities as defined in section 2 of  
6 this 2013 Act to obtain federal approval, renewal of an existing waiver of federal require-  
7 ments or a new waiver of federal requirements, as necessary to make the use and distrib-  
8 ution of federal rent subsidy and assistance payments under 42 U.S.C. 1437f as efficient and  
9 beneficial as possible to increase the supply of decent, safe, sanitary and affordable housing  
10 for persons of low income and very low income in this state.

11 **SECTION 12.** Sections 2 to 8 and 11 of this 2013 Act are added to and made a part of ORS  
12 chapter 456.

13 **SECTION 13.** In addition to and not in lieu of any other appropriation, there is appro-  
14 priated to the Housing and Community Services Department, for the biennium beginning July  
15 1, 2013, out of the General Fund, the amount of \$\_\_\_\_\_, which may be expended for pur-  
16 poses of carrying out the provisions of sections 2 to 6 of this 2013 Act.

17 **SECTION 14.** In addition to and not in lieu of any other appropriation, there is appro-  
18 priated to the Housing and Community Services Department, for the biennium beginning July  
19 1, 2013, out of the General Fund, the amount of \$\_\_\_\_\_, which may be expended for pur-  
20 poses of carrying out the provisions of sections 7 and 8 of this 2013 Act.

21 **SECTION 15.** Sections 2 to 9 and 11 of this 2013 Act and the amendments to ORS 456.561  
22 and 659A.421 by sections 1 and 10 of this 2013 Act become operative on July 1, 2014.  
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