

# Enrolled House Bill 2639

Sponsored by Representative KOTEK; Representatives HARKER, HUFFMAN (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to housing; creating new provisions; amending ORS 659A.139 and 659A.421; and appropriating money.

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

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

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

(a) "Dwelling" means:

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

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

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

(c) "Real property" includes a dwelling.

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

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

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

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

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

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

(b) Expel a purchaser from any real property.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Secured by residential real estate; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 3.** (1) **The Housing and Community Services Department shall develop and implement the Housing Choice Landlord Guarantee Program for the purpose of providing financial assistance to landlords to mitigate damages caused by tenants as a result of occupancy under the Housing Choice Voucher Program.**

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

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

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

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

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

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

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

**SECTION 4.** (1) When a landlord is determined to be eligible to receive assistance under section 3 of this 2013 Act, the Housing and Community Services Department shall require the responsible tenant to repay the full or a partial amount of any assistance paid to the landlord and shall offer the responsible tenant a reasonable repayment agreement that provides for repayment by the tenant to the department of the full or a partial amount of the assistance paid to the landlord. Amounts repaid by tenants under this section must be deposited into the Housing Choice Landlord Guarantee Program Fund created in section 5 of this 2013 Act.

(2) After the department pays a claim for assistance to a landlord under section 3 of this 2013 Act, the department shall serve a notice upon the responsible tenant stating the following:

(a) The tenant must repay to the department the amount of any assistance paid to a landlord on the tenant's behalf pursuant to section 3 of this 2013 Act;

(b) The tenant may enter into a reasonable repayment agreement with the department to repay the full or a partial amount of any assistance paid to a landlord on the tenant's behalf pursuant to section 3 of this 2013 Act;

(c) If the tenant does not enter into a repayment agreement or make good faith efforts to comply with the terms of a repayment agreement that the tenant has entered into, or otherwise fails to repay the full or a partial amount of assistance paid to the landlord on the tenant's behalf pursuant to section 3 of this 2013 Act, the department may seek to collect any amount remaining unpaid by the tenant;

(d) The department shall make available upon request by local housing authorities and landlords information regarding a tenant's compliance with the provisions of this section, including records of repayments made by the tenant, where applicable; and

(e) The tenant may seek a waiver of repayment requirements under this section for good cause shown and may contest the department's determination that the tenant has an obligation to repay any amounts of assistance paid to a landlord on the tenant's behalf, in accordance with ORS chapter 183.

(3) The department shall, in accordance with ORS chapter 183, provide an opportunity for the tenant to contest the department's determination that the tenant has failed to repay amounts due under a repayment agreement, that the tenant has not made or is not making a good faith effort to comply with the repayment agreement or that the tenant has not paid to the department the full or a partial amount of the assistance paid to a landlord on the tenant's behalf pursuant to section 3 of this 2013 Act. The department shall serve a notice of noncompliance upon the tenant in accordance with ORS 183.415 that states the amount remaining unpaid by the tenant.

(4) The department may pursue any rights, remedies or processes provided by law for the collection of unpaid amounts due from a tenant for assistance paid to a landlord on the tenant's behalf pursuant to section 3 of this 2013 Act.

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

(6) The department shall make available upon request by, and in a timely manner to, local housing authorities and landlords information regarding a tenant's compliance with the provisions of this section, including records of repayments made by the tenant, where applicable.

(7) The department shall adopt rules to implement the provisions of this section, including but not limited to the contents of the notice required under subsection (2) of this section

and the procedure for providing information to local housing authorities and landlords regarding a tenant's record of repayment as required under subsection (6) of this section.

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

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

(a) Amounts donated to the fund;

(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Amounts repaid by tenants under section 4 of this 2013 Act;

(d) Investment earnings received on moneys in the fund; and

(e) Other amounts deposited in the fund from any source.

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

(4) The department may use moneys in the fund to pay the administrative costs associated with the fund and with processing applications, making payments to landlords and administering repayment agreements under sections 2 to 6 of this 2013 Act.

**SECTION 6.** (1) Local housing authorities shall report annually to the Housing and Community Services Department regarding information required to be provided to the Secretary of Housing and Urban Development regarding each local housing authority's participation in the Housing Choice Voucher Program.

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

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

(a) Ensuring timely inspection of dwelling units and prompt processing of tenant applications and tenant-based assistance payments to landlords;

(b) Establishing leases with terms that match the lease length that is standard and customary for the dwelling units involved;

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

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

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

(A) Local housing authorities or their representatives;

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

(C) Tenants or their advocates.

(b) The committee shall:

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

(B) Discuss and share best practices for maximizing participation by landlords and tenants in the Housing Choice Voucher Program; and

(C) Develop strategies and outcome measures for gauging the effectiveness of the Housing Choice Voucher Program.

(c) The committee shall prepare and submit a report to the committees of the Legislative Assembly that have authority over the subject area of housing on the date of the convening

of each regular session of the Legislative Assembly regarding participation in and the effectiveness of the Housing Choice Voucher Program in this state.

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

**SECTION 8.** Sections 2 to 7 of this 2013 Act are added to and made a part of ORS chapter 456.

**SECTION 9.** In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2013, out of the General Fund, the amount of \$74,855, which may be expended for purposes of carrying out the provisions of sections 2 to 6 of this 2013 Act.

**SECTION 10.** (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Emergency Board, for the biennium beginning July 1, 2013, out of the General Fund, the amount of \$74,855, to be allocated to the Housing and Community Services Department for the purposes of implementing the Housing Choice Landlord Guarantee Program and carrying out the provisions of sections 2 to 6 of this 2013 Act.

(2) If any of the moneys appropriated by subsection (1) of this section are not allocated by the Emergency Board prior to December 1, 2014, the moneys remaining on that date become available for any purpose for which the Emergency Board lawfully may allocate funds.

**SECTION 11.** Sections 2 to 6 of this 2013 Act and the amendments to ORS 659A.421 by section 1 of this 2013 Act become operative on July 1, 2014.

**SECTION 12.** ORS 659A.139 is amended to read:

659A.139. (1) ORS 659A.103 to [659A.145] **659A.144** shall be construed to the extent possible in a manner that is consistent with any similar provisions of the federal Americans with Disabilities Act of 1990, as amended by the federal ADA Amendments Act of 2008 and as otherwise amended.

(2) The determination of whether an individual has a disability as provided in ORS 659A.104 (1) shall be construed in favor of broad coverage of individuals under ORS 659A.103 to 659A.145, to the maximum extent permitted by the terms of ORS 659A.103 to 659A.145.

**Passed by House July 3, 2013**

.....  
Ramona J. Line, Chief Clerk of House

.....  
Tina Kotek, Speaker of House

**Passed by Senate July 8, 2013**

.....  
Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2013

**Approved:**

.....M,....., 2013

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2013

.....  
Kate Brown, Secretary of State