



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 274

DEPARTMENT OF VETERANS' AFFAIRS

FILED

05/29/2025 5:15 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Home Loan Program Rules with additional Refinancing option

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/27/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 06/18/2025

TIME: 3:00 PM - 4:00 PM

OFFICER: Mr Jay DeFillipo

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-719-359-4580

CONFERENCE ID: 88571190583

NEED FOR THE RULE(S)

Home Loan Program Rules compiled into one chapter and now include refinancing option

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

All documents supporting this rule filing are included on Agency Administrative Rules Website:
<https://www.oregon.gov/odva/Connect/Pages/OARs.aspx>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The proposed rules are anticipated to have a positive impact on racial equity in Oregon. By streamlining the Home Loan rules and adding the ability to refinance will provide Oregon Veterans easier access to information on how to purchase a home through the program. It will also allow historically underrepresented Veterans to have access to a program that enables them to own or refinance a home if they wish.

FISCAL AND ECONOMIC IMPACT:

(1) The agency has a fiscal impact with the expansion of the Home Loan rules that includes a new refinancing option. The refinancing option requires an increase of our other funds limitation by \$206,855 for a Loan Specialist position (LS2)

This permanent position will strengthen the Home Loan team and enable the expansion to offer refinance options. This expense was accounted for in the Governors Recommended Budget and at the time of filing is included in the proposed Legislative Approved Budget.

(2) The addition of a Home Loan Refinance Program will have an indeterminant economic impact of increased revenue as more veterans may opt to use a refinance program. No specific positive impact can be assessed at this time.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) ODVA does not anticipate costs of compliance for units of local government or members of the public from implementing the refinance loan program rules, except for the costs to mortgage brokers or mortgage lenders applying to become Approved Lenders (defined in existing rules to include both mortgage lenders and mortgage brokers) for ODVA as described in paragraph (2) below.

(2) Effect on Small Businesses:

(a) Existing rules for ODVA's home loan program provide for ODVA to enter agreements with qualified mortgage lenders or mortgage brokers to become Approved Lenders for ODVA home loans. Of the Approved Lenders under current agreement with ODVA, 112 are mortgage brokers, a subset of which would qualify as Small Businesses. After implementing the refinance rules, ODVA anticipates a potential increase in applications for Approved Lender status from mortgage brokers that would qualify as Small Businesses

(b) The new refinance rules do not impose additional requirements for Approved Lenders currently under agreement with ODVA, and do not impose requirements beyond those already in place in existing rules for Approved Lenders. The Approved Lender application process requires an applicant to devote ordinary course officer, owner, or staff time to complete the application, and an applicant may also incur incidental professional fees to collate information or documents necessary for the application if the applicant relies on third party professionals for maintain its books and records. The application process may require an applicant to incur professional fees to provide an attorney opinion letter of the applicant's power and authority to contract with ODVA as an Approved Lender. If ODVA obtains a report from a credit-reporting firm as part of the application process, the applicant must pay for the actual cost of the report.

(c) None, except the costs associated with Approved Lender application process described immediately above.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small business were included in the Rules Advisory Committee selection.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

274-050-0001, 274-050-0005, 274-050-0010, 274-050-0015, 274-050-0020, 274-050-0025, 274-050-0030, 274-050-0035, 274-050-0040, 274-050-0045, 274-050-0050, 274-050-0055, 274-050-0060, 274-050-0065, 274-050-0070, 274-050-0075, 274-050-0080, 274-050-0085, 274-050-0090, 274-050-0095, 274-050-0100, 274-050-0105,

274-050-0110, 274-050-0115, 274-050-0120, 274-050-0125, 274-050-0130, 274-050-0135, 274-050-0140, 274-050-0145, 274-050-0150, 274-050-0155, 274-050-0160, 274-050-0165, 274-050-0170, 274-050-0175, 274-050-0180, 274-050-0185, 274-050-0190, 274-050-0195, 274-050-0200, 274-050-0205, 274-050-0210, 274-050-0215, 274-050-0220, 274-050-0225, 274-050-0230, 274-050-0235, 274-050-0240, 274-050-0245, 274-050-0250, 274-050-0255, 274-050-0260, 274-050-0265, 274-050-0270, 274-050-0275, 274-050-0280

ADOPT: 274-050-0001

RULE SUMMARY: Definitions for OAR 274-050-0001 TO 274-050-0285

CHANGES TO RULE:

274-050-0001

Definitions

- (1) "Acquisition" has the meaning prescribed in ORS 407.085(1).¶
- (2) "Agreement" means the contract between the Department and an Approved Lender, setting forth the terms and conditions under which Program loans made by the Approved Lender will be purchased by the Department.¶
- (3) "ALTA Mortgagee's Title Insurance" means a title insurance policy issued in American Land Title Insurance form by a title insurer licensed by the State of Oregon.¶
- (4) "Approved Lender" means any "Lending Institution" as defined in ORS 407.177(8) that has entered into an Agreement with the Department to originate residential loans acceptable to the Department or to act as a conduit for the origination of residential loans acceptable to the Department. In determining whether or not to contract with a Lending Institution, the Department may consider factors including, but not limited to the following:¶
 - (a) The Department's need for additional Approved Lenders, either on a statewide basis or in a specific geographical area.¶
 - (b) Whether or not the entity qualifies as a "Banking Institution" or similar entity including, but, not limited to an "Extranational Institution," a "Federal Bank," a "Federal Savings Bank," or a "Financial Institution" under ORS 706.005, 706.008, 707.744, or 723.042. ¶
 - (c) Whether or not the entity qualifies as a "mortgage broker" under ORS 59.840 through 59.965 for a period of three years.¶
 - (d) Whether or not the Lending Institution has had any complaints filed against it or against any of its employees, agents, officers, directors, owners, or affiliates through the Consumer and Business Services Department of the State of Oregon, through any other regulatory agency or otherwise.¶
 - (e) Whether or not representatives of the Lending Institution have attended any Department -sponsored training.¶
 - (f) The reputation of the Lending Institution, including its employees, agents, officers, directors, owners or affiliates.¶
 - (g) The number and experience of Lending Institution employees and other personnel available to originate loans or to act as a conduit for the origination of residential loans acceptable to the Department.¶
 - (h) Status and character of the Lending Institution's loan policies and procedures.¶
 - (i) The financial capability of the Lending Institution to originate loans or to act as a conduit for the origination of loans.¶
 - (j) The Lending Institution's qualification and good standing status as a loan originator or a seller/servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, the United States Department of Veterans' Affairs, or the Nationwide Multistate Licensing System.¶
 - (k) Whether or not the deposits of the Lending Institution are insured by FDIC or some other federal agency or corporation.¶
 - (l) The experience, efficiency and performance of the Lending Institution in the area of residential lending and any other area of the Lending Institution's business.¶
 - (m) The willingness and commitment of the Lending Institution to accept and to fulfill the terms of a Department's proposed Agreement.¶
 - (n) The result of any references which are checked as part of the Lending Institution's application process to become an Approved Lender.¶
- (5) "Commitment" means a promise made by the Department to an Approved Lender or applicant, evidenced by a written commitment letter, setting forth the terms upon which the Department will purchase, originate, or accept by underwriting and closing a specific program loan made or processed by the Approved Lender or the Department pursuant to a reservation of funds.¶
- (6) "Department" means the Oregon Department of Veterans' Affairs established under ORS 406.005.¶
- (7) "Director" means the Director of the Department.¶

- (8) "Existing Loan" means any secured loan or loans from any lender for which the borrower's owner-occupied primary residence is the sole collateral securing such loan or loans.¶
- (9) "Home" means a residential structure, including a Manufactured Home or a condominium unit, which is or will be upon closing a Program loan, established, maintained and used primarily as a principal residence by an applicant, and includes real property connected to a residential structure, including any long-term leasehold and any outbuildings.¶
- (10) "Lease" means the giving of possession and use of profits of the Security for a period of time in return for compensation.¶
- (11) "Lease Option" means a lease of the Security with an option to purchase the Security within a stipulated period of time.¶
- (12) "OrVet Loan Origination Guide - Synopsis" means the manual containing the origination instructions for the Veterans' Home Loan Program, and any subsequent changes as they are affected. A copy of the OrVet Loan Origination Guide - Synopsis is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon 97301-1285, and copies are available to the public during normal business hours.¶
- (13) "Loan to Value Ratio" is the loan amount plus any outstanding balance owed to the Department on the Security divided by the Net Appraised Value. ¶
- (14) "Manufactured home" means a structure that is:¶
- (a) At least 20 feet in width;¶
 - (b) Constructed for movement on the public highways and that has sleeping, cooking and plumbing facilities;¶
 - (c) Intended for human occupancy;¶
 - (d) Being used for residential purposes;¶
 - (e) Classified and taxed as real property in the county where the structure is located; and¶
 - (f) Constructed in accordance with the Oregon Manufactured Dwelling Installation Specialty Code adopted under ORS 446.155 or the Model Manufactured Home Installation Standards established by the Department of Housing and Urban Development.¶
- (15) "Mortgage" means a loan in which real property is used as collateral.¶
- (16) "Net Appraised Value" means the lesser of the appraised value or the purchase price. The "appraised value" is the value established by an appraisal obtained by or at the direction of the Department, or an appraisal approved by the Department.¶
- (17) "Oregon War Veterans' Fund" means the fund described in ORS 407.495.¶
- (18) "Processing Manual" means the Department's manual containing the policy for the Veterans' Home Loan Program and any subsequent changes as they are affected. A copy of the Processing Manual is on file with the Oregon Department of Veterans Affairs, 700 Summer Street NE, Salem Oregon, and copies are available to the public during normal business hours.¶
- (19) "Qualified Improvements" means the remodel or improvement of an existing Home which will substantially enhance or protect the basic livability of the Home, and which are consistent with provisions of applicable tax laws and the Department's use of the Oregon War Veterans' Fund.¶
- (20) "Rent" means the giving of possession of the Security for occupancy for a specific period of time in return for a stipulated amount of compensation.¶
- (21) "Reservation of Funds" or "Rate Lock" means the setting aside of specific funds at a designated interest rate for a specific period of time.¶
- (22) "Resides in the State of Oregon" means a person who:¶
- (a) Maintains a primary legal residence in Oregon, or¶
 - (b) Intends to occupy a Home in Oregon, secured by a Department loan, that will be their primary legal residence.¶
- (23) "Security" means all of the real property that has been or will be acquired for a Home and which will or does serve as collateral for a loan from the Department. ¶
- (24) "Security Instrument" means the Mortgage agreement, Trust Deed or land sale contract that secures a borrower's obligation to repay their loan or purchase agreement with the Department. ¶
- (25) "Transfer" means a change of ownership of the Security, either by operation of law, act of the parties, or both, such as deed, contract, certificate, court decree, property settlement, foreclosure, easement, condemnation, or adverse possession of the premises.¶
- (26) "Trust Deed" has the meaning given that term in ORS 86.705. ¶
- (27) "Underwriter/Designated Loan Officers" means those employees of the Department whose paramount responsibility shall be the approval or rejection of all applications for loans.¶
- (28) "Veteran," for purposes of determining eligibility for the Program loan, means a person who:¶
- (a) Resides in the State of Oregon at the time of applying for a loan from the fund;¶
 - (b) Is a veteran, as that term is defined by Oregon law in ORS 407.087;¶
 - (c) Served under honorable conditions on active duty in the Armed Forces of the United States; and¶
 - (d) Satisfies the requirements applicable to the funding source for the loan from the Oregon War Veterans' Fund.¶

(29) "Veterans' Home Improvement Loan" means a loan or loans for Qualified Improvements for not more than the total loan right where said loan funds are used to improve the basic livability of the home. ¶

(30) "Veterans' Home Loan Program" or "Program" means the Department's loan program intended to carry out the purposes of Article XI-A of the Oregon Constitution. The Veterans' Home Loan Program consists of loans for purchases, Veterans' Home Improvement Loans and Veterans' Refinance Loans. ¶

(31) "Veterans' Refinance Loan" means a loan, the proceeds of which pay off one or more Existing Loans and for which the Department will be secured by a first priority lien on the borrower's owner-occupied primary residence after closing.

Statutory/Other Authority: ORS 406.005, ORS 407.030, ORS 407.115, ORS 407.125, Art. XI-A OR Constitution

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0005

RULE SUMMARY: OAR 274, Division 50, is established to administer and enforce ORS 407.075 through 407.595 and to consolidate and clarify existing rules from former Chapter 274 Divisions 20, 21, 22, 25, 28 and 45.

CHANGES TO RULE:

274-050-0005

Purpose and Objectives

OAR 274, Division 50, is established to administer and enforce ORS 407.075 through 407.595 and to consolidate and clarify existing rules from former Chapter 274 Divisions 20, 21, 22, 25, 28 and 45. These rules, together with the OrVet Loan Origination Guide - Synopsis, shall implement the Veterans' Home Loan Program. The objective of the Veterans' Home Loan Program is to provide funds to qualified applicants to finance the acquisition of qualified Security consistent with Article XI-A of the Oregon Constitution.

Statutory/Other Authority: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179, ORS 407.181, ORS 407.275

Statutes/Other Implemented: ORS 407.275

ADOPT: 274-050-0010

RULE SUMMARY: States the effect of the Administrative Rules

CHANGES TO RULE:

274-050-0010

Effect

These rules shall have the effect of law and shall be binding in all instances on persons making application for a loan under Article XI-A of the Oregon Constitution and ORS 407.075 to 407.595, but if any part of the rules are found to be void or illegal, the illegality shall not affect the remaining provisions of the rules.

Statutory/Other Authority: ORS 407.075 to 407.595

Statutes/Other Implemented: Article XI-A of the Oregon Constitution, ORS 407.075 to 407.595

ADOPT: 274-050-0015

RULE SUMMARY: Establishes the requirement to complete forms to determine eligibility for the Veterans' Home Loan Program

CHANGES TO RULE:

274-050-0015

Forms and Signatures for Eligibility Determinations and Loan Applications

(1) Requests to the Director to confirm eligibility and applications for a Veterans' Home Loan Program loan shall be made to the Director on forms provided by the Director.¶

(2) Each party applying for a loan from the Veterans' Home Loan Program shall first complete the appropriate Department eligibility form. A Veteran shall sign the eligibility form with their name as it appears on the discharge, unless their name has changed since discharge, in which case they shall use their present name. A spousal applicant shall sign the eligibility form with their present name.¶

(3) A party who meets eligibility requirements shall use and sign their name on their loan application form the same as it appears on their eligibility form.

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 406.030, ORS 407.075, ORS 407.115, ORS 407.125

ADOPT: 274-050-0020

RULE SUMMARY: States who may apply for a loan

CHANGES TO RULE:

274-050-0020

Who May Apply for Loan

An application for loan from the Veterans' Home Loan Program shall be made only by an individual or individuals who meet eligibility requirements.

Statutory/Other Authority: ORS 408.225

Statutes/Other Implemented: ORS 408.225

ADOPT: 274-050-0025

RULE SUMMARY: Sets eligibility criteria which is established in Oregon Constitution

CHANGES TO RULE:

274-050-0025

Eligibility Requirements

(1) Eligibility to apply for a loan under this division is subject to the eligibility criteria of Article XI-A of the Oregon Constitution. After a party submits an eligibility form, the Department will send written notice to the party regarding the Department's eligibility determination. ¶

(2) The acceptance of an application for a loan and granting of a loan is further subject to the provisions of ORS Chapter 407, these rules, other applicable law, the policies and procedures of the Department, and the discretion of the Director.

Statutory/Other Authority: OR Const. Art. XI-A, ORS 183, ORS 406.030, ORS 407.125, ORS 407.115

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0030

RULE SUMMARY: Establishes what evidence may be used for eligibility

CHANGES TO RULE:

274-050-0030

Evidence of Eligibility

The prospective Veteran or spousal applicant(s) shall submit an eligibility form to the Director with the following evidence to establish eligibility:¶

(1) Evidence of the veteran's service and separation must be documented on DD Form 214, a DD Form 215 Correction to DD Form 214, or other evidence of service provided by the Department of Defense that is satisfactory to the Director.¶

(2) Certificate of Service and Casualty Report when applicant is the unremarried spouse of a person who died on active duty, is missing in action, or is a prisoner of war.¶

(3) Proof of Oregon residence.¶

(4) Proof of any change in name since discharge:¶

(a) Where legally changed, proof shall be by a certified copy of the Court Order, or a marriage certificate, or a divorce decree:¶

(b) Where not legally changed, proof shall be by an affidavit from the applicant and affidavits from at least two disinterested persons.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0035

RULE SUMMARY: Provides filing period information

CHANGES TO RULE:

274-050-0035

Filing Period

An applicant may submit an application for a loan at any time after the veteran's separation from the service, even though the veteran has re-enlisted and is not separated at the time of application.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407.115, ORS 407.125, ORS 407.205

ADOPT: 274-050-0040

RULE SUMMARY: Establishes number of applications are permitted

CHANGES TO RULE:

274-050-0040

Number of Applications Permitted

(1) Except as provided in section (2) and (3) of this rule, a Veteran or eligible spousal applicant may have only one Department loan application pending at any time.¶

(2) A Veteran or other eligible spouse applicant may make application for another loan if conditions exist which entitle that person to another loan.¶

(3) A Veteran or other eligible spouse applicant may make an application for an additional loan if that person presently has a Program loan.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0045

RULE SUMMARY: Establishes application procedures for farm applications

CHANGES TO RULE:

274-050-0045

Requirements for Farm Application

- (1) Must complete the Department's farm income, experience, and expense form.¶
- (2) Must have capital or an equivalent line of credit to cover development costs and one year's operating cost.¶
- (3) Must show, to the satisfaction of the Director, that the farm portion of the loan security is capable of producing an annual income that will repay the loan allocated to the farm land and farm buildings.¶
- (4) The acceptance and processing of farm loan applications is subject to the discretion of the Director. In addition to the factors identified in OAR 274-050-130 to 135 or OAR 274-050-140, the Director may take into account whether the Department currently employs personnel qualified to underwrite or process farm loan applications in exercising the Director's discretion to accept and process farm loan applications.

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407.205, ORS 407.265, ORS 407.385

ADOPT: 274-050-0050

RULE SUMMARY: Establishes how to modify an application

CHANGES TO RULE:

274-050-0050

Modification of Application

An application may be modified such as to the amount of the loan requested, the legal description or plans and specifications for the property originally offered as Security, or the inclusion of additional property offered as Security, but the modification must be requested in writing by the applicant and shall be subject to the approval of the Director. Substitution of the property originally offered as Security is not allowed.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0055

RULE SUMMARY: Establishes how to cancel an application

CHANGES TO RULE:

274-050-0055

Cancellation of Application

(1) An applicant may cancel their application for a Program loan at any time prior to receipt of the loan proceeds.¶

(2) The Director may cancel any application if the applicant fails to comply with any of the conditions pertaining to the loan.¶

(3) The Director may destroy any application 25 months after the applicant is notified of action taken on an application (whether credit was approved, or adverse action was taken).

Statutory/Other Authority: ORS 183, ORS 406.030, ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.275, ORS 407.305, ORS 407.375

Statutes/Other Implemented: ORS 406

ADOPT: 274-050-0060

RULE SUMMARY: Establishes security requirements for the loan

CHANGES TO RULE:

274-050-0060

Security for the Loan

(1) The borrower shall own the Security in fee simple at the time the loan is closed.¶

(2) The State shall have the first lien on the Security at the time of making the loan.¶

(3) The Security for the loan shall consist of real property and the Mortgage Agreement or Trust Deed shall include all property to be acquired as a Home. More than one parcel of real property may be included in the Security.¶

(4) All Security must include a Home that is completed and ready for occupancy.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075, Oregon Constitution Article XI-A, Section 3, ORS to 407.385

ADOPT: 274-050-0065

RULE SUMMARY: Establishes legal description of property offered as a security

CHANGES TO RULE:

274-050-0065

Legal Description of Property Offered as Security

(1) Property offered as Security must have an adequate legal description from which the boundaries of the property may be located.¶

(2) The Director may require a survey, at the applicant's expense, to ascertain the boundary lines and location of all permanent improvements on the property.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0070

RULE SUMMARY: Establish appraisal requirements of property offered as security

CHANGES TO RULE:

274-050-0070

Appraisal of Property Offered as Security

(1) At the applicant's expense, an appraisal shall be made to assist in establishing the loan value only after a complete application has been received.¶

(2) The appraisal shall be made by an appraiser licensed and certified by the Oregon Appraiser Certification and Licensure Board.¶

(3) The appraisal must be no older than 90 days from the date the loan application is submitted to the Department. The appraisal must be no older than 120 days from the date the loan closes.¶

(4) The format of the appraisal shall be the current Universal Residential Appraisal Report used by the Federal National Mortgage Association (Fannie Mae Form 1004 at the time these rules are adopted) and must include the cost approach.

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.225(3)

Statutes/Other Implemented: ORS 407

RULE SUMMARY: Establishes the allowed terms of a loan purchase agreement.

CHANGES TO RULE:

274-050-0075

Terms of Purchase Loan

(1) The maximum amount allowed for a purchase loan may not exceed the least of:

(a) The maximum original principal balance permitted on a single-family first mortgage loan by the Federal Housing Finance Agency.

(b) The maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans' Affairs for its Home Loan Guaranty Program (38 U.S.C 3701 et seq.; 38 C.F.R part 36).

(2) When calculating the maximum amount allowed for a loan, the Department of Veterans' Affairs shall exclude:

(a) Funds disbursed under ORS 407.145 (2) and 407.275 (4); and

(b) The amount of a loan that has been repaid, or for which the property securing the loan has been transferred by deed or otherwise, if the property is destroyed by fire or other natural hazard; or is taken through condemnation or lost or disposed of for a compelling reason devoid of fault on part of the applicant.

(3) An eligible person may not receive or, under ORS 407.305, assume more than four Program loans during the lifetime of the Veteran. The borrower shall not receive any cash back from the Department purchase loan.

(4) The Director shall determine the period and amount of repayment based on the age, condition, location, and useful life of the Security, but the maximum period of repayment shall not exceed statutory limits.

(a) Loans shall be made in multiples of one dollar (\$1.00).

(b) Each program loan shall have a final maturity of at least 15 and not more than 40 years from the date of purchase.

(c) A loan may be amortized over a period of not more than 40 years for a Home other than a Manufactured Home. A loan for a Manufactured Home may be amortized over a period not exceeding the expected life of the Manufactured Home, as determined by the Department or the Director. The limitations do not preclude the Department from later extending the amortization period.

(5) The borrower shall carry hazard insurance on the Security, and if applicable, flood insurance. The Director may also require that hazards other than fire be covered. The Director may determine the form and amount of insurance coverage.

(a) All insurance policies shall provide that the Department is a mortgagee insured under the policy.

(b) All insurance claims money shall be payable to the Department under a provision in the Security Instrument. In case of loss, the Director shall determine the disposition of any and all funds received under claims submitted under the insurance policies.

(6) The terms of the Security Instrument and, if applicable, any agreement between the borrower and the Department, govern the payment of property taxes, hazard and flood insurance and other assessments or charges against the Security.

(a) Where the terms of the Security Instrument provide, or if the borrower and the Department have agreed, the borrower shall be responsible for making monthly payment to the Department of a sum sufficient to pay for property taxes, hazard insurance, flood insurance, and other assessments or charges against the Security. These payments are the "Escrow Payments", and as further described in OAR 274-050-0080.

(b) If the terms of the Security Instrument do not obligate a borrower to make Escrow Payments, or if the borrower and the Department have not agreed for the borrower to make Escrow Payments:

(A) The borrower shall timely pay all property taxes and other assessments or charges that may or do become a lien against the Security, and in the event of the borrower's failure to pay, the Director may make payment and collect such amount from the borrower in a manner consistent with the terms of the Security Instrument;

(B) All premiums and charges for insurance coverage shall be timely paid by the borrower, and in the event of failure to maintain insurance coverage, the Director may acquire the necessary coverage and collect such amounts from the borrower in a manner consistent with the Security Instrument.

(7) The Director may collect in advance, unless otherwise agreed, from said borrowers together with their payments required under section (4) of this rule, sufficient amounts for the Escrow Payments. Such additional amounts collected by the Director shall be held in escrow pending payment of the obligations for which they are collected and interest on said amounts shall be paid to the borrower in the manner and at the rate of interest described in ORS 86.245(1).

(8) The Director may pay property taxes, hazard insurance premiums and other charges from the Escrow Payments collected from the borrower for those purposes. The Director, in the absence of funds collected from the borrower (or if such funds are insufficient in amount), may elect to pay property taxes, hazard insurance premiums, and other charges. Any amount paid by the Director may be collected in the manner consistent with the

Security Instrument or other manner agreeable to the Director and borrower. ¶

(a) For loans secured by a Trust Deed, or for which the borrower is making Escrow Payments to the Department, the Director will not add amounts advanced for payment of property taxes or hazard insurance premiums to the principal balance of the loan. On these loans, any amount advanced will be entered as a negative balance in the escrow account and recovered in a manner consistent with OAR 274-050-0080. ¶

(b) For loans not secured by a Trust Deed, and for which the borrower is not making Escrow Payments to the Department, the Director may add amounts advanced for payment of property taxes or hazard insurance premiums to the principal balance of the loan unless the terms of the Security Instrument regarding the reimbursement of funds advanced by the Director require a different method of reimbursement. ¶

(c) Unless the Security Instrument requires otherwise, the borrower's loan payment may be adjusted to repay the money advanced to pay the property taxes, hazard insurance premiums, and other charges against the Security, together with interest thereon, within a maximum period of 12 months or such shorter time as established by the Director. ¶

(9) All newly submitted loans for which the Loan to Value Ratio exceeds 80 percent require private mortgage insurance consistent with the provisions of ORS 407.485. ¶

(10) No borrower is entitled to borrow more than the maximum amount allowed under ORS 407.215 other than for reasons specified in ORS 407.205.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

RULE SUMMARY: Addresses property tax payments and escrow accounts for Veteran Home Loans.

CHANGES TO RULE:

274-050-0080

Property Tax Amortization and Escrow Accounting

(1) Except as otherwise provided in this Division, payments required on all loans shall include an amount for Escrow Payments. If for any reason the property taxes cannot be paid on November 15th, the Director will send the notice as soon as possible after the taxes are paid.¶¶

(2) All applications, for permission to pay taxes and hazard insurance directly by the Veteran or other eligible borrower, will receive a written approval or disapproval from the Director. If the application is approved, the borrower will be advised of the date when the Director will discontinue making disbursements, if applicable, and the date the loan payment will be adjusted, if necessary.¶¶

(3) The Director may revoke any permission granted concerning the payment of taxes and hazard insurance on the Security by giving the owner of the Security 30 days written notice of the revocation, except as otherwise provided herein. If the Director advances funds to pay unpaid taxes and/or hazard insurance, any advance by the Director for such a shortage/deficiency also will constitute immediate revocation by the Director of permission for the owner to pay directly any taxes and hazard insurance due on the Security, and the account will revert to the last signed agreement between the Director and borrower for the payment of taxes, hazard insurance and other obligations. Any advances by the Director, including any interest and fee, shall be paid back within the remaining payment/escrow year. The borrower may not change this obligation without prior written approval from the Director.¶¶

(4) Pursuant to the provisions of ORS 407.169, under this division, escrow accounts are available for the prepayment of estimated property taxes and hazard insurance premiums.¶¶

(5) On monthly simple interest loans with escrow accounts, the required escrow payment may be based, inter alia, on the preceding year's disbursements for such items as property taxes, hazard insurance premiums, other required insurance premiums such as mortgage insurance, and condominium or homeowner's association dues. In cases of unassessed new construction, the estimate may be based, inter alia, on the assessment of comparable residential property in the market area.¶¶

(6) The Director will pay interest on the escrow account as provided by ORS 86.245(1) to (4).¶¶

(7) Under this Division, all escrow accounts on monthly simple interest loans will be administered in the following manner:¶¶

(a) The Director may require a cushion that shall be no greater than 1/6 of the estimated total annual disbursements from the escrow account. Estimated disbursements may be modified by an amount not exceeding the most recent year's change in the national Consumer Price Index (CPI) for all urban consumers (CPI, all items).¶¶

(b) At the end of an escrow account computation year, an aggregate analysis will be completed on each escrow account to determine the borrower's escrow account payment(s) for the new payment year. The borrower will be notified of any shortage, deficiency, or surplus in the escrow account and the amount of escrow account payment to be included in the loan payment:¶¶

(c) Except if a loan is two (2) months or more delinquent in payments, an analysis will not be done until the loan is brought current:¶¶

(d) If the analysis determines there is not sufficient money in the escrow account to pay the required disbursements, the Director may advance the shortage/deficiency. The required escrow payments on the loan will be increased to recover any interest, fee or other advance by the Director for such a shortage or deficiency, or the borrower may repay the advance, interest or fee in a lump sum:¶¶

(e) If the analysis determines there is a surplus in the escrow account equal to or greater than \$50, the entire surplus shall be refunded to the borrower. If the surplus is less than \$50, this amount will be retained in the escrow account and credited against the next year's escrow payments:¶¶

(f) A statement itemizing all escrow account activity, (annual escrow analysis) will be provided to the borrower each year.¶¶

(8) The following definitions apply to section (7) above:¶¶

(a) "Aggregate analysis" means to analyze the escrow account by calculating the sufficiency of escrow funds as a whole, as opposed to calculating components separately.¶¶

(b) "Cushion" means funds that the Director may require a borrower to pay into an escrow account to cover unanticipated disbursements or disbursements made before the borrower's payments are available in the account.¶¶

(c) "Deficiency" means the amount of a negative balance in an escrow account.¶¶

(d) "Escrow account" means any account that the Director establishes or controls on behalf of a borrower to pay

taxes, insurance premium, or other charges, as applicable.¶

(e) "Escrow account computation year" means a 12-month period that the Director establishes for the escrow account.¶

(f) "Shortage" means an amount by which a current escrow account balance falls short of the target balance at the time of escrow analysis.¶

(g) "Surplus" means an amount by which the current escrow account balance exceeds the target balance of the account.¶

(h) "Target balance" means the estimated month end balance in an escrow account that is just sufficient to cover the remaining disbursements from the escrow account in the escrow account computation year, taking into account the remaining scheduled periodic payments, and a cushion.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0085

RULE SUMMARY: Implements loan cancellation life insurance program for Veterans' Home Loans authorized by ORS 407.465.

CHANGES TO RULE:

274-050-0085

Loan Cancellation Life Insurance

(1) The Director may make loan cancellation life insurance available for any person described in ORS 407.475.¶

(2) The Director, prior to obtaining loan cancellation life insurance for any person described in ORS 407.475, may enter into a contract with an insurance carrier which allows the carrier to:¶

(a) Require an application for insurance;¶

(b) Underwrite classes of prospective insureds on the basis of information, such as age and health status, contained in the application;¶

(c) Set premium schedules commensurate with risk factors for other than service-connected disability;¶

(d) Deny payment of benefits for suicide or certain pre-existing, nonservice-connected disability.¶

(3) The Director may negotiate a contract with the insurance carrier as necessary to insure procurement and maintenance of adequate, solvent, and uninterrupted, long-term insurance coverage.¶

(4) The insurance contract may provide that loan cancellation life insurance on a loan or contract for the acquisition of a Home will be canceled after payments on the loan or contract become four months delinquent. Accounts due monthly are considered four months delinquent when the cumulative delinquency equals four times the standard monthly payment.¶

(5) The insurance contract may provide that insurance canceled for the above reason cannot be reinstated unless payments are brought current and a new application for insurance is submitted. The provisions of section (2) of this rule will apply to the newly submitted application.

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.465, ORS 407.475

Statutes/Other Implemented: ORS 407.115, ORS 407.135, ORS 407.145, ORS 407.465, ORS 407.475

ADOPT: 274-050-0090

RULE SUMMARY: Describes factors and process for the Director of the Department of Veterans' Affairs to set Veteran Home Loan interest rates.

CHANGES TO RULE:

274-050-0090

Interest Rate for Loans

(1) The Director will prescribe interest rates for loans. In prescribing interest rates, the Director will consider the following factors:¶

(a) The current value of funds;¶

(b) The solvency of the Department's Loan Program; and¶

(c) The rates' effect on applicant.¶

(2) In prescribing interest rates, the Department also may consider factors including, but not limited to the following:¶

(a) The projected value of funds;¶

(b) Any federal tax law restrictions;¶

(c) Actual or projected conventional mortgage rates;¶

(d) The availability of funds;¶

(e) Actual or projected loan demand;¶

(f) The loan purpose; and¶

(g) The source(s) of funds.¶

(3) The Director periodically may change the prescribed rates of interest for loans to be funded by the Department to reflect reconsideration of, or changes in, factors considered under sections (1) and (2) of this rule, or in consideration of additional factors.¶

(4) The Director may prescribe different rates of interest for different loans, depending upon factors including, but not limited to the following:¶

(a) The time of an initial loan or commitment to fund a loan;¶

(b) The initial rate of interest on a loan;¶

(c) The type of loan;¶

(d) The status of the borrower;¶

(e) Discharge date limitations associated with certain sources of funds for Program loans; ¶

(f) The status of the loan Security;¶

(g) The perceived risk associated with the loan;¶

(h) Whether or not the Department agreed to maintain an interest rate commitment within a certain range or for a certain time; and¶

(i) Whether or not the applicant abandoned a previous loan application or loan commitment.¶

(5) The Department will endeavor to record prescribed interest rates as reasonably as it is practical for the Department to do so, in its Tables and Codes Manual. This publication will be available for viewing at the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem, Oregon, as permitted by the Department, during regular business hours.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0095

RULE SUMMARY: Establishes applicable interest rate for loan assumptions by a borrower eligible for a Veterans Home Loan.

CHANGES TO RULE:

274-050-0095

Interest Rate on Assumptions by Eligible Veterans

A veteran or other borrower eligible for a loan under ORS 407.075 to 407.595 and Article XI-A of the Oregon Constitution who assumes a loan, previously made by the Director, assumes at 10.5 percent variable or at the existing rate on the loan, whichever is higher.

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407.285 - 407.335

RULE SUMMARY: Establishes interest rate when property secured by Veterans Home Loan is transferred to certain non-veterans.

CHANGES TO RULE:

274-050-0100

Interest Rates on Security Property Transferred to Non-Veterans

(1) Effective February 3, 1982, the interest rate on all loans secured by property transferred before February 3, 1982 will not change on the first transfer on or after February 3, 1982, but on any subsequent transfer the interest rate will be as provided by this rule and will be variable, with the limitation that the rate will not decrease and will not increase more than an additional one percent, except as provided under ORS 407.335(4).¶

(2) Subject to the conditions and limitations of section (1) of this rule, the interest rate on real property loans, when the property securing the loan is transferred to someone other than those entitled to the veteran's interest rate, shall be:¶

(a) Through August 21, 1969, 5 percent;¶

(b) Effective August 22, 1969, 6.2 percent;¶

(c) Effective September 4, 1969, 7.9 percent;¶

(d) Effective December 10, 1969, 8.1 percent;¶

(e) Effective April 8, 1970, 7.8 percent;¶

(f) Effective August 19, 1970, 7.4 percent;¶

(g) Effective January 6, 1971, 6.4 percent;¶

(h) Effective May 27, 1971, 7 percent;¶

(i) Effective June 1, 1977, 8 percent;¶

(j) Effective December 1, 1977, 8.8 percent;¶

(k) Effective December 1, 1978, 9.8 percent;¶

(l) Effective December 1, 1979, 11 percent;¶

(m) Effective December 1, 1980, 13 percent;¶

(n) Effective December 1, 1981, 17 percent;¶

(o) Effective February 3, 1982, 12 percent;¶

(p) Effective October 15, 1982, 11.5 percent;¶

(q) Effective January 1, 1985, 11.52 percent;¶

(r) Effective January 1, 1986, 9.86 percent, or one percent higher than the rate on the original note, whichever is higher. "The rate on the original note" shall be the rate stated as such on the note;¶

(s) Effective January 1, 1987, 8.59 percent, or one percent higher than the rate on the original note, whichever is higher;¶

(t) Effective September 1, 1987, 10.75 percent, or the rate existing on the loan immediately prior to the transfer, whichever is higher.¶

(3) Subject to the conditions and limitations of section (1) of this rule, the interest rate on personal property loans, when the property securing the loan is transferred to someone other than those entitled to the veteran's interest rate, shall be:¶

(a) Effective May 30, 1975, 9 percent. Personal property included leaseholds until leaseholds were defined as real property on October 4, 1977. On or after October 4, 1977, the interest rate on leaseholds is the real property interest rate;¶

(b) Effective December 1, 1977, 9.8 percent;¶

(c) Effective December 1, 1978, 10.8 percent;¶

(d) Effective December 1, 1979, 12 percent;¶

(e) Effective December 1, 1980, 14 percent;¶

(f) Effective December 1, 1981, 18 percent;¶

(g) Effective February 3, 1982, 12 percent;¶

(h) Effective December 1, 1982, 12.5 percent;¶

(i) Effective January 1, 1985, 11.52 percent;¶

(j) Effective January 1, 1986, 9.86 percent, or one percent higher than the rate on the original note, whichever is higher. "The rate on the original note" shall be the rate stated as such on the note;¶

(k) Effective January 1, 1987, 8.59 percent, or one percent higher than the rate on the original note, whichever is higher;¶

(l) Effective September 1, 1987, 10.75 percent, or the rate existing on the loan immediately prior to the transfer, whichever is higher.¶

(4) This rule does not apply to transfers to the surviving spouse, unremarried former spouse, surviving child, or

stepchild of the original borrower, who are entitled to the veteran's interest rate.

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407.275, ORS 407.335

ADOPT: 274-050-0105

RULE SUMMARY: Describes certain loan requirements for Veterans Home Loans.

CHANGES TO RULE:

274-050-0105

Loan Requirements

(1) To be eligible for purchase or underwriting and closing by the Department pursuant to a commitment to an Approved Lender, a Program loan shall be made or processed by the Approved Lender during the period of that Commitment. The loan shall comply with the terms of such Commitment, the requirements set forth in the Agreement between the Department and the Approved Lender, and the conditions set forth in these rules and the OrVet Loan Origination Guide - Synopsis.¶

(2) Each Approved Lender shall make loans for single-family dwellings.¶

(3) Each Program loan shall have a final maturity of at least 15 years and not more than 40 years from the date the loan is funded.¶

(4) Each Program loan shall be secured by a first lien Mortgage agreement or Trust Deed. The veteran or other eligible borrower shall hold title to the home in fee simple.¶

(5) Each Program loan shall be executed on forms approved by the Department. Such forms shall prescribe Program loan requirements regarding insurance, Escrow Payments, late charges, defaults, and similar matters.¶

(6) The Department shall require that Program loans be subject to acceleration at the option of the Department if at any time the Veteran or other eligible borrower does not reside in the home as their primary residence, or if the borrower is determined to have been ineligible at the time the Program loan was made.¶

(7) The interest rate on each Program loan shall be at the rate stated in the applicable Commitment issued by the Department.¶

(8) The Department will not fund a loan in the name of a trust or other entity. Loans are funded only in the name of the eligible veteran or borrower.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3 History

ADOPT: 274-050-0110

RULE SUMMARY: Describes procedures for reserving funds and establishing the applicable interest rate during the application process for a Veterans Home Loan.

CHANGES TO RULE:

274-050-0110

Reservation of Funds and Commitments

The Department reserves funds for individual loans in the name of the Veteran or other eligible applicant upon request from an Approved Lender or from authorized Department staff. The Department may solicit applications and accept loan fund reservations from Approved Lender(s) subject to the terms of the appropriate agreements, and the rate and availability of funds.

(1) The Department will reserve funds for applications at the time of:

(a) Acceptance of application for processing by the Department; or

(b) A verbal or written request from an Approved Lender that an application for funding is being processed.

(2) When the Department reserves funds, an interest rate will be committed to this reservation and will be effective for a period of 60 days. The loan must be closed before the end of 60 days, or the committed interest rate will expire. If the reservation is reissued, it will bear an interest rate at the higher of the expired/cancelled rate or the then-current interest rate at the time of reissue. If a veteran withdraws an application and subsequently re-applies for a loan on the same Security, the "higher of" rule will apply for a period of 120 days from the date of withdrawal.

(3) If the loan is not presented to the Department for purchase with all documentation in place within 90 calendar days of the final HUD-1 settlement date, the Department may charge the Approved Lender a fee of one basis point of the loan amount per calendar day, until loan is approved for purchase.

Example: \$150,000 loan closed and presented for purchase 120 calendar days after settlement date. The fee charged and deducted from the amount due to the Approved Lender is calculated as follows: \$150,000 x .01% x 30 days = \$450.

(4) The Commitment letter to the Approved Lender will contain the following information:

(a) The dollar amount of the Commitment;

(b) The interest rate for the loan;

(c) The term of the loan;

(d) The mortgage insurance or guarantee required, if any;

(e) The period of time during which the Department will purchase the loan;

(f) The veteran or other eligible applicant who will be the borrower;

(g) The property identification (i.e., property address);

(h) Any additional information or conditions the Department considers appropriate in the Commitment.

(5) The Department will promptly notify Approved Lenders when it will not accept a Commitment request, for whatever reasons.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075, Oregon Constitution Article XI-A, Section 3, ORS 407.385

ADOPT: 274-050-0115

RULE SUMMARY: Describes title insurance requirements for Veterans Home Loans.

CHANGES TO RULE:

274-050-0115

Title Insurance

Each Program loan shall be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurer licensed by the State of Oregon. Such policy shall be in an amount at least equal to the outstanding principal balance of the loan. The benefits of the policy shall run to the Department as either named insured or assignee. The policy shall not be subject to any exceptions or conditions other than those previously approved by the Department.[¶]

[ED. NOTE: Forms referenced are available from the agency.]

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179, ORS 407.181

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0120

RULE SUMMARY: Describes hazard insurance requirement for Veterans Home Loans.

CHANGES TO RULE:

274-050-0120

Hazard Insurance

The Home securing a Program loan shall be covered by hazard insurance, which meets the requirements of the rules and the OrVet Loan Origination Guide - Synopsis. Such hazard insurance shall be in effect prior to purchase or funding of the Program loan, and shall remain in effect for the term of the Program loan. The Department shall be named as the mortgagee insured.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.177, ORS 407.179, ORS 407.181

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0125

RULE SUMMARY: Describes flood insurance requirements for Veterans Home Loans.

CHANGES TO RULE:

274-050-0125

Flood Insurance

(1) The Director shall require that the location of the Security on all loan applications received by the Department is reviewed and a determination made as to whether flood insurance will be required as a condition of the loan.¶

(2) A flood determination fee will be charged to the borrower equal to the amount charged by the flood determination reporting company at the time the application is submitted.¶

(3) All flood determinations are to be provided for the duration of the loan while it exists in the Department's portfolio (more commonly referred to as life-of-loan tracking).¶

(4) The flood determination company must meet the qualifications as determined by the Department by applying relevant industry standards.¶

(5) Based on the determination that the Security for the loan is located in an area classified as a special flood hazard area, the Director shall require the borrower to purchase flood insurance as a requirement of the loan.¶

(6) If following loan closing, it is determined that the Security is located within a flood hazard area as defined by the National Flood Insurance Reform Act of 1994 (42 USCS 3701-4370a), the borrower may be required to purchase flood hazard insurance at no cost to the Department. If flood hazard insurance is not voluntarily acquired, the Director may force place said insurance and:¶

(a) Disburse all costs associated with the acquisition of the coverage from the escrow account; or¶

(b) If there is no established escrow account, disperse all costs of the acquisition and establish an escrow account to cover the cost; and¶

(c) Loan payments will be increased to repay the amount advanced.

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.177, ORS 407.275

Statutes/Other Implemented: ORS 407.169, ORS 407.177, ORS 407.275

ADOPT: 274-050-0130

RULE SUMMARY: Describes standards for approval of a Veterans Home Loan.

CHANGES TO RULE:

274-050-0130

Approval of the Loan

The approval of any loan shall be dependent upon the following:¶

(1) The applicant must meet the current industry standards determined by the Department to be applicable to the proposed loan. Applicable industry standards may include, but are not limited to:¶

(a) Local lending practices;¶

(b) FannieMae and other lending organization standards, to include Mortgage Insurance requirements, if applicable; and¶

(c) Federal and state legal requirements.¶

(2) The applicant may be required to have equity in the property.¶

(3) Secondary financing may be permitted.¶

(4) Construction shall meet the minimum standards set by federal, state or local laws.¶

(5) A performance bond may be required for new construction.¶

(6) Inspections to prove the premises safe, sanitary and structurally sound may be required, and the loan may be refused if the construction is inferior.¶

(7) The Security shall be served by adequate means of legal and physical access and shall have an acceptable potable water supply.¶

(8) The Director may approve a loan for the following purposes:¶

(a) Acquisition of a home;¶

(b) To refinance an Existing Loan; or¶

(c) To finance any other Acquisition loan that is authorized by Oregon Constitution Article XI-A, Section 3 and ORS Chapter 407, permitted under federal tax law, and acceptable to the Director.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

RULE SUMMARY: Describes grounds to refuse to make a Veterans Home Loan.

CHANGES TO RULE:

274-050-0135

Grounds for Refusing to Make a Loan

The Director may refuse to make a loan to any applicant if the Director finds any of the following:¶

- (1) Prior loan experience with an applicant was unsatisfactory, including, but not limited to, late payment or nonpayment on loan and impairment of Security.¶
- (2) The applicant did not disclose all debts or obligations as required under the terms of the loan credit application.¶
- (3) The applicant has a negative cash flow.¶
- (4) The applicant has declared bankruptcy within three years prior to application for a loan unless:¶
 - (a) The applicant or the applicant's spouse has been regularly employed, other than self-employed, since the discharge; and¶
 - (b) The applicant has established credit since the bankruptcy and made timely and satisfactory payments on obligations; and¶
 - (c) The bankruptcy was caused by circumstances beyond the applicant's control, such as uninsured medical expense, layoff, strike, or divorce.¶
- (5) The applicant has declared bankruptcy between three and five years prior to application for a loan, unless the applicant has reestablished credit since the bankruptcy.¶
- (6) Business bankruptcies will not be grounds for refusing to make a loan if:¶
 - (a) The applicant was self-employed and the bankruptcy was not due to misconduct; and¶
 - (b) There is no evidence of derogatory credit information prior to the self-employment or after the bankruptcy; and¶
 - (c) The applicant has subsequently obtained a permanent position with reliable income.¶
- (7) Chapter 13 bankruptcies will not be grounds for refusing to make a loan if the applicant has made satisfactory payment of at least three-fourths of the total payments due the trustee.¶
- (8) The applicant's ability to repay the loan is insufficient, as determined by the Department of Veterans' Affairs (Department) by applying relevant industry standards.¶
- (9) The applicant is an unsatisfactory credit risk, as determined by the underwriting analysis of the credit rating agency selected by the Director. In that case, the Director shall advise the applicant of the Director's refusal on this basis and shall advise the applicant of his decision per Regulation B of the Fair Credit Reporting Act.¶
- (10) The applicant is involved in the following type of transactions:¶
 - (a) The purchase of property from a spouse where the amount that the applicant seeks to borrow from the Department exceeds the unpaid balance on loans used to acquire or improve the property;¶
 - (b) The purchase from a corporation or limited liability company wholly or substantially owned by the applicant or a member of the applicant's household;¶
 - (c) The purchase of property indirectly owned by the applicant.¶
- (11) The applicant has or has had any interest, either title or contractual, in the property being purchased, except it will not be grounds for refusing to make a loan if:¶
 - (a) The applicant is purchasing a one-half interest from a divorced spouse, as stated in the divorce decree, and the new loan must be funded no more than 18 months from the date of the original purchase money obligation;¶
 - (b) Within the past 18 months, the applicant closed a non-Department loan or completed construction on a construction loan and is now applying for a Department loan to pay it off;¶
 - (c) If the application is for amount spent on the purchase of, or the value of, land only (whichever is less) and construction commences within 24 months of land acquisition and the loan is funded within 18 months of the start of construction.¶
- (12) The applicant does not meet applicable underwriting or industry property standards as determined by the Department.¶
- (13) If the applicant will use the property offered as Security for the loan for a purpose that would jeopardize the tax-exempt status of interest to holders of Bonds issued by the Director:¶
 - (a) Specifically excluded uses are:¶
 - (A) As an investment;¶
 - (B) As a recreational home;¶
 - (C) As a principal place of business for any trade or business of the applicant.¶
 - (b) Examples of excluded uses (if a portion of the property is used regularly and exclusively in connection with a trade or business) are:¶

(A) Using any portion of the residence as a place to meet patients, clients, or customers in the normal course of business;¶

(B) Storage of inventory in a separate and identifiable fixed location and kept for the wholesale or retail selling of products as a part of the applicant's trade or business which would entitle the applicant to a "Business Use of the Home" income tax deduction;¶

(C) Providing care for children, for the elderly, or for handicapped persons, if the nature and character of the care entitles the property owner to a "Business Use of the Home" income tax deduction.¶

(c) Any use of a residence which does not qualify for a "Business Use of the Home" income tax deduction shall not be considered as a use in a trade or business. Examples of such permitted uses are:¶

(A) Storage of inventory for the benefit of an employer or in conduct of a direct selling business, if the use is not exclusive of any personal use of that part of the residence;¶

(B) Babysitting, if the nature and character of the babysitting does not entitle the property owner to a "Business Use of the Home" income tax deduction;¶

(C) Engaging in person-to-person sales of consumer products to customers in the home, such as Tupperware, Amway, Avon, wicker, crystal, or similar products;¶

(D) Foster home established by Court Order, or designated by a Government Agency with jurisdiction to make such a designation;¶

(E) Using part of the residence to write legal briefs, prepare tax returns, read financial periodicals and reports, clip bond coupons, or engage in similar work, if the use is not exclusive of any personal use of that part of the residence.

Statutory/Other Authority: ORS 183, ORS 406.030, ORS 407.115, ORS 407.135, ORS 286, ORS 407.145, ORS 407.275, ORS 407.305, ORS 407.375, Federal Tax Act of 1986

Statutes/Other Implemented: ORS 183, ORS 407

ADOPT: 274-050-0140

RULE SUMMARY: Describes non-exclusive factors for Director to consider in exercising discretion to fund Veterans Home Loans.

CHANGES TO RULE:

274-050-0140

Loan Funding

(1) Funding by the Department of any loan is subject to the discretion of the Director. In determining whether or not to fund any loan, the Director may consider factors, including, but not limited to the following:¶

(a) Actual or projected cost of funds;¶

(b) Any applicable federal tax or other law;¶

(c) Availability and source of lendable funds;¶

(d) Actual or projected conventional mortgage rates;¶

(e) Actual or projected loan demand;¶

(f) Loan purpose;¶

(g) Eligibility of applicant;¶

(h) Credit worthiness of applicant;¶

(i) Adequacy of Security for the loan.¶

(2) The Director may from time to time establish priorities and other requirements with respect to the granting of loans under this Division.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0145

RULE SUMMARY: Describes process for Lending Institutions to become Approved Lenders for Veterans Home Loans.

CHANGES TO RULE:

274-050-0145

Approved Lenders

(1) Any Lending Institution, as defined in ORS 407.177(8) may apply to become an Approved Lender by submitting to the Director information required by the Director which may include, but is not limited to the following for review:¶

(a) An application in the form prescribed by the Director, including a certificate of compliance with tax laws;¶

(b) Its counsel's opinion regarding power and authority of the lending institution to enter into a purchase agreement with the Director;¶

(c) A list of authorized officers;¶

(d) Its most recent, financial statements;¶

(e) Financial Statement of Condition (Balance Sheet) for the last two fiscal years and Profit and Loss Statement;¶

(f) Resumes of principal officers and key employees;¶

(g) Company biography and background;¶

(h) Signed and executed broker/lender agreement;¶

(i) Resolution of the Board of Directors/Certificate of Authorized Signatures;¶

(j) Articles of Incorporation (if incorporated);¶

(k) Signed Credit Release Authorization;¶

(l) Applicable licenses as required by state and local law;¶

(m) Explanation of Quality Control Procedures;¶

(n) W-9;¶

(o) Any other documentation or information deemed necessary by the Director;¶

(p) A credit report fee may be charged to the lender as part of the approved lender application process in an amount not to exceed the amount charged by the credit-reporting firm. Any funds not used or obligated for a credit report shall be refunded.¶

(2) A lending institution will qualify as an Approved Lender if the Director determines that the applicant has the capability and resources to originate only or originate, underwrite and fund loans in a sound and professional manner. The Director shall consider such factors as those itemized in 274-045-0001(4)(a) through (l).¶

(3) To become an Approved Lender, a lending institution shall enter into an agreement with the Director, providing for the manner and terms of the sale or processing of loans. This agreement shall be in the standard form prescribed by the Director. Approved Lenders shall carry out such agreement in accordance with the procedures set forth in the agreement, the rules, and OrVet Loan Origination Guide - Synopsis. The Director may revise such procedures from time to time. The Director may terminate its agreement with an Approved Lender at any time on the terms and conditions stated in such agreement, the rules, or the OrVet Loan Origination Guide - Synopsis.¶
[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0150

RULE SUMMARY: Describes requirements for applicant to provide evidence of title for property that will serve as security for Veterans Home Loan.

CHANGES TO RULE:

274-050-0150

Evidence of Title

The applicant or their lender or broker shall furnish at the applicant's expense an ALTA Mortgagee's Title Insurance policy for the amount of the loan, a title company lien search, or a certificate of title.¶

(1) The title policy, or other reports, shall show that the State has a first lien except in the case of:¶

(a) Property taxes not payable;¶

(b) A lien of a bonded irrigation or drainage district, in which case all due assessments must be paid;¶

(c) A public improvement lien, bonded or being collected by the County Tax Collector in which case all due assessments must be paid;¶

(d) A lien for Reclamation Service of the United States Government, in which case all due assessments must be paid;¶

(e) An ALTA Mortgagee's Title Insurance policy insuring the State against loss from any prior encumbrance, but the encumbrance must be acceptable to the veteran mortgagor.¶

(2) All water stock shall be endorsed to, and deposited with, the Director to be held by the State until its interest terminates.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0155

RULE SUMMARY: Addresses escrow requirements for closing Veterans Home Loans.

CHANGES TO RULE:

274-050-0155

Escrow Closing of Loans

(1) All loans made by the Director (except for protection of security loans) shall be closed by persons or firms licensed to engage in the escrow business under the Oregon Escrow Laws (ORS 696.505 to 696.590), or an attorney at law rendering services in the performance of duties as attorney at law.¶

(2) The borrower will select the escrow agent or attorney for closing the loan and the borrower shall pay all escrow fees.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0160

RULE SUMMARY: Describes grounds for advancing funds to repair serious defects on property that is security for a Veterans Home Loans.

CHANGES TO RULE:

274-050-0160

Authority to Protect the Security

At the discretion of the Director, funds can be disbursed to make repairs to correct a serious structural, safety, or sanitary deficiency discovered in a property that is Security for a loan when it is determined such a disbursement is necessary to protect the interest of the State. This would occur when the following conditions exist:¶

(1) The present and probable future value of the property, without benefit of the needed repairs, is sufficiently low when compared to the existing loan balance that the State's investment would be threatened; and¶

(2) The current owner is the original eligible borrower who lacks the financial means to make the needed repairs or corrections in a timely manner; and the funds required, when added to the existing loan balance, would exceed the maximum loan right or percentage of loan limitations; or¶

(3) The current owner is a transferee who lacks the financial means to make repairs or corrections in a timely manner.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0165

RULE SUMMARY: Describes impact of an owner's transfer of property subject to a Veterans Home Loan.

CHANGES TO RULE:

274-050-0165

Transfer of Ownership

(1) The Director shall be notified in writing of any Transfer of ownership or the right to possess property that is used as Security for a loan with the Department.¶

(2) The following are conditions that constitute a Transfer of an ownership interest or the right to possess the Security:¶

(a) A borrower takes title to the property with a person other than the borrower's legal spouse:¶

(b) Contract of sale:¶

(c) Any deed transfer:¶

(d) Any other indenture that purports to convey or transfer any portion of equitable title except for the following:¶

(A) Deed to create a life estate retained by the eligible borrower:¶

(B) Deed to a government entity for public use as noted in ORS 407.275(2):¶

(C) A purchase option that extends for a period of 12 months and 32 days or more:¶

(D) A purchase option with a consideration of three percent or more of the stated purchase price.¶

(3) If any or all of the above referenced conditions in subsection (2)(a) through (d) occur to the Security of a Department loan, and in the Director's discretion, the Director may declare the entire balance of the loan immediately due and payable.¶

(4) The interest rate on a loan secured by property transferred back to the original borrower depends upon whether the original borrower has an outstanding loan, with the interest rate under ORS 407.325 (Rate of Interest Payable by Applicant) at the time of the transfer, and whether the Home will be used as the original borrower's principal residence:¶

(a) If the original borrower does not have an outstanding loan with the interest rate under ORS 407.325 at the time of the transfer, and the home will be used as the original borrower's principal residence, the interest rate will be the rate charged on the loan when made and as periodically adjusted under the "variable" provision of ORS 407.325.¶

(b) If the original borrower has an outstanding loan with the interest rate under ORS 407.325 at the time of the transfer, or said borrower will not use the Home as the borrower's principal residence, the interest rate will be the rate under ORS 407.335 (Rate of Interest Payable by Transferee).¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.275, ORS 407.305, ORS 407.335

Statutes/Other Implemented: ORS 407.275, ORS 407.335

ADOPT: 274-050-0170

RULE SUMMARY: Describes procedures for eligible borrowers to assume existing Veterans Home Loan.

CHANGES TO RULE:

274-050-0170

Assumption of Loan by Eligible Veteran

When a Veteran or eligible spouse who is eligible to assume a loan under the provisions of ORS 407.305 seeks to acquire property and wishes to assume liability on the loan, the Director will approve the assumption subject to the following conditions:¶

(1) The applicant must submit the same evidence of eligibility and the same application as if an application were being submitted for a Program loan.¶

(2) The provisions of ORS 407.225(3) do not apply except when additional funds are being requested. If additional funds are not being requested, the applicant may be permitted to assume a loan with a balance in excess of 97 percent of the Net Appraised Value on Homes which are real property, 85 percent of the Net Appraised Value on Homes which are not real property, and 90 percent of the Net Appraised Value on farms.¶

(3) Notwithstanding the provisions of OAR 274-050-0225, if additional funds are not being requested, an appraisal fee will not be collected by the director, and no appraisal of the property will be made. If additional funds are being requested, the provisions of ORS 407.225(3) and OAR 274-050-0225(3)(a) shall apply, and an appraisal of the property will be made.

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.225, ORS 407.275, ORS 407.305

Statutes/Other Implemented: Ch. 238 OL 1995, ORS 407.225, ORS 407.275

ADOPT: 274-050-0175

RULE SUMMARY: Describes provisions for declaring Veterans Home Loans immediately due and payable after certain transfers.

CHANGES TO RULE:

274-050-0175

Due on Sale

(1) By ORS 407.335(5) the Director has discretion to decide when a second sale or transfer of the property, or any part thereof, securing a Department loan, will cause the entire balance of the loan to be immediately due and payable.[¶]

(2) Effective with sales, or transfers of ownership, occurring after June 30, 1989, the Director will not declare the entire unpaid balance on any loan to be immediately due and payable because of a second sale, or transfer of ownership, of the property or any part thereof, securing the loan.

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407.335

ADOPT: 274-050-0180

RULE SUMMARY: Describes factors for the Director to consider in deciding whether to approve rental of property that serves as security for a Veterans Home Loan.

CHANGES TO RULE:

274-050-0180

Rental

The Director may approve the rental of a Security, that has been occupied by the Veteran or other eligible borrower. The Director, when determining whether to approve the rental of a Security for a Department loan, may consider the following factors including but not limited to the following:¶

(1) The effect on the tax-exempt status of bonds issued under Article XI-A of the Oregon Constitution.¶

(2) Whether the Security was and is appropriately used as the principal residence of the borrower(s).¶

(3) The financial integrity of the loan program.¶

(4) Any potential decreases in the value of the Security.¶

(5) The impact on remedies available under the loan documents.¶

(6) Whether or not there has been or will be any material change in the borrower's/spouse's employment.¶

(7) The dissolution or annulment of the borrower's marriage.¶

(8) A significant geographical relocation by the borrower.¶

(9) Any unusual hardship for the borrower(s).¶

(10) The borrower(s) ability to maintain the Security as the borrower's principal residence.

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.385

Statutes/Other Implemented: ORS 407.385

ADOPT: 274-050-0185

RULE SUMMARY: Describes modification of Veterans Home Loans.

CHANGES TO RULE:

274-050-0185

Modification of Mortgage

(1) A request for modification of a Program loan must be made in writing by the borrower.¶

(2) At the Director's discretion, the Director and the borrower may agree in writing to the terms of a modification, and it shall be recorded in the mortgage records in the county where the Security is located.¶

(3) At their discretion, the Director may approve a request for a modification if the current owner of the Security is an original borrower and the Director determines that a modification is necessary to protect the interest of the State.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

RULE SUMMARY: Implements temporary reduction of loan payment provisions authorized by ORS 407.095.

CHANGES TO RULE:

274-050-0190

Temporary Reduction of Payments

(1) In the event a borrower is unable to make required loan payments due to loss of income because of illness, injury, death, involuntary job loss, or economic stress due to factors beyond the applicant's control, the borrower may apply for a temporary reduction of payments provided that:

(a) The borrower is the original borrower or one who assumed the loan pursuant to ORS 407.305;

(b) The borrower is residing in the property used as Security for the loan at the time the applicant requests the payment reduction;

(c) The borrower must request the temporary reduction of payments by writing to the Director of Veterans' Affairs, c/o Collection Unit, 700 Summer Street, NE, Salem, Oregon 97301-1285 or through any online customer service portal established by the Department. The written request must contain a statement describing the reason for the request, the borrower's current income and source of income, and must be accompanied by a copy of the borrower's previous two years' federal income tax returns;

(d) The borrower must furnish any other documentation requested by the Director relating to the reason for request.

(2) In determining the amount and term for reducing loan payments, the Director shall consider the value of the Security, the balance owing on the loan, the total assets of the borrower, past payment record of the borrower, and any other matters related to financial hardship to the borrower and the financial position of the loan program;

(a) Monthly loan payments may not be reduced to an amount less than the monthly loan cancellation life insurance premiums and the escrow portion of the monthly payment, if applicable;

(b) The Director may recapture the reduced portion of the monthly payment and any other accrued delinquency by whatever repayment methods are appropriate to individual circumstances;

(c) The terms and conditions of the payment reduction and repayment must be agreed upon, in writing, and approved by both the borrower and the Director;

(d) The borrower may be required to submit information periodically regarding the borrower's income and financial affairs in order to reevaluate the necessity of continuing the reduction in payments. Following such reevaluation, the Director may modify the loan payment reduction; and

(e) The borrower must continue to reside in the loan Security.

(3) A borrower whose loan is in foreclosure is not eligible for a temporary reduction of loan payments.

(4) Temporary reduction of loan payments is a benefit to be extended only in an extreme emergency and is not to be abused.

(5) Because of the effect of these reductions on the solvency of the loan program as a whole, on the probable financial position of the program in the future, on the condition of the tax-exempt bond market, and on other borrowers in the program, the Director has determined that the maximum number of borrowers that can be accommodated under this program is approximately one percent of the total outstanding borrowers. Therefore, at any time, the Director will enter into agreements as provided in subsection (2)(c) of this rule with no more than one percent of the total loan portfolio.

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.030, ORS 407.095, ORS 407.115

Statutes/Other Implemented: ORS 406.030, ORS 407.095, ORS 407.115

ADOPT: 274-050-0195

RULE SUMMARY: Describes conditions under which Director may adjust payments and other terms of Veterans Home Loans.

CHANGES TO RULE:

274-050-0195

Reamortization of Loans

Unless the Security Instrument provides otherwise, the Director may adjust payments and other terms of the loan under the following conditions:¶

(1) Tax adjustments.¶

(2) A change in the interest rate.¶

(3) A change in the insurance premiums.¶

(4) Errors or omissions on the operative loan documents.¶

(5) When the balance of the loan will not amortize within the terms of the Security Instrument. ¶

(6) Any expenditure or advance of funds as provided under ORS 407.135 (formerly 407.080), 407.145(2) (formerly 407.090(2)), and the security document.

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407.095, ORS 407.135, ORS 407.145

ADOPT: 274-050-0200

RULE SUMMARY: Describes early payoff provisions for certain Veterans Home Loans.

CHANGES TO RULE:

274-050-0200

Discount for Early Payoff

(1) The balance on some loans and contracts may be discounted in consideration of the loan or contract being paid in full before its final payment date. The amount of the discount will be based upon a mathematical computation which uses a discount rate to compute the present value of the remaining scheduled payment stream of the loan or contract being considered for discount. The discounted amount may be further limited by a percentage based calculation determined by the Director. The Director will periodically fix the discount rate and the percentage based calculation, if any, taking into consideration:¶

(a) Market conditions (reinvestment opportunities);¶

(b) Financial statement conditions (health of programs);¶

(c) Cash flow conditions;¶

(d) Balance and term of the loan or contract being considered for discount.¶

(2) The loans and contracts that will be discounted and the discount rate will be periodically determined by the Director and the information will be available to all interested persons making inquiry to the Director. The amount of the discount quoted by the Director shall include a per diem amount that must be added to the quoted payoff amount in order to arrive at a payoff amount for a specific day. The quoted discount amount shall be honored for 30 days following the date of the quote.¶

(3) Any loan or contract that does not amortize on the agreed-to retirement date will be reamortized and a new payment determined prior to the computation of a discount amount. The reamortized payment amount will be used only for the purpose of calculating the amount of the discount.¶

(4) Discounts shall not be available on loans or contracts being paid in full by the proceeds from Loan Cancellation Life Insurance or hazard insurance.¶

(5) This rule does not apply to loans or contracts after a default of the loan or purchase agreement has occurred and settlement negotiations are in process.¶

(6) No discount shall be given where the loan or contract is being paid in full in connection with a change in ownership of the property securing the loan or the property being purchased on contract.

Statutory/Other Authority: ORS 291.021., ORS 406.030, ORS 407.115, ORS 407.169., ORS 407.177, ORS 407.179, ORS 407.181, ORS 407.275

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0205

RULE SUMMARY: Describes policy and procedures for Director to partially release property that is collateral for a Veterans Home Loan.

CHANGES TO RULE:

274-050-0205

Partial Release of Security

(1) A partial release of Security may be granted when the borrower submits a complete application for one and the Director determines that granting the requested release would not jeopardize the Department's Security position.¶

(2) The remaining property must qualify as Security for the loan balance under the provisions of ORS 407.225(3) and OAR 274-050-0060 to 0075.¶

(3) Notwithstanding compliance with section (2) of this rule, the Director may require that the loan balance be reduced as consideration for granting the requested release.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406, ORS 407

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0210

RULE SUMMARY: Describes confidentiality provisions for information submitted to the Department in the application process for a Veterans Home Loan.

CHANGES TO RULE:

274-050-0210

Confidential Nature of Information Submitted by Borrower

Information submitted by the applicant to determine eligibility and in support of their application for a loan shall be considered confidential and shall not be disclosed to persons outside the Department, unless permission is given by the applicant to release the information, or the information is requested by a public agency in the exercise of its official duty and only then at the discretion of the Director.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0215

RULE SUMMARY: Describes confidentiality provisions for information gathered by the Director in the application process for a Veterans Home Loan.

CHANGES TO RULE:

274-050-0215

Confidential Nature of Information Procured by the Director

Information secured by the Director in connection with an eligibility determination or application for a loan shall be considered confidential and shall not be disclosed to persons outside the employ of the Department, unless such information is requested by a public agency in the exercise of its official duty, and only then the release shall be at the discretion of the Director.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

RULE SUMMARY: Establishes disclosure of information and fees

CHANGES TO RULE:

274-050-0220

Disclosure of Information and Fees

(1) Information in the custody of the Director will be disclosed, or protected from disclosure, consistent with the provisions of ORS Chapter 192.¶¶

(2) Requests for information can be made verbally, but the Director reserves the right to require the request to be in writing, signed and dated, naming or describing the information desired and the date the information is needed. A reasonable period of time must be allowed for the custodian of the records to locate and assemble the requested information. Restrictions may be placed upon where the information will be delivered or made available for inspection. The Director shall designate a staff employee to be the Department's records custodian, whose function is to perform the duties necessary to manage the Department's records in accordance with all applicable laws. These duties may include, but are not limited to, certifying records to be true copies of the original documents on file in the custody of the Director.¶¶

(3) Mailing lists of the Department's active account holders, and Vets News recipients may be made available upon payment of the required fee. The mailing lists will not contain the names of persons who submit a written request for deletion of their name from the list on the basis that such disclosure would constitute an unreasonable invasion of privacy.¶¶

(4) The following information will not be disclosed except pursuant to an order issued by the director or by the Attorney General of the State of Oregon:¶¶

(a) Internal communications of an advisory nature preliminary to any final agency determination of policy or action:¶¶

(b) The name of a confidential informant or information submitted to the Department in confidence where submission of the information was not required and the Department has obliged itself in good faith not to disclose the information.¶¶

(5) The following information will not be disclosed except pursuant to an order issued by the Attorney General:¶¶

(a) Information relating to the appraisal of real and personal property prior to making a loan secured by that property:¶¶

(b) Information of a financial, medical, or personal nature relating to any individual, if such disclosure would constitute an unreasonable invasion of privacy.¶¶

(6) Fees will be charged to reimburse the Department the cost of making information available or for producing copies of records:¶¶

(a) For mailing lists, the fee is derived from the actual production costs. The lists are available in alphabetical or zip code order:¶¶

(b) The Director may require reimbursement for any additional costs actually incurred by the Department:¶¶

(c) For all requests for copies of documents, the charge is based on the actual costs incurred for search of files and for documents provided:¶¶

(d) For necessary safeguard of documents where a requestor is allowed to research records on Department premises, a staff employee, designated by the Director, must be present. The fee to be charged for this service will be equal to the hourly pay of the employee designated. In appointing an employee to safeguard Departmental records, the Director shall consider whether the pay range of the designated employee is reasonable and appropriate, reflecting the technicality and sensitivity of the documents being researched:¶¶

(e) The Director may waive the fees provided in subsections 6(a), 6(c) and 6(d) of this rule for city, county, state, and federal agencies, and for individuals obtaining information from their own files:¶¶

(f) The Director may require payment of any and all fees identified in this section, in a form satisfactory to the Director, prior to providing any disclosure of documents or information. The Director may make advance charges for anticipated labor expenses on an estimated basis.¶¶

(7) The purchase of a mailing list does not constitute permission to use the Department's name in any marketing or advertising approach, whether expressly stated, inferred or implied.

Statutory/Other Authority: ORS 192, ORS 406.030, ORS 407.115

Statutes/Other Implemented: ORS 192, ORS 406.030, ORS 407.115

274-050-0225

Fees

(1) The Director imposes fees for the following:¶

(a) New Loan.¶

(b) Partial Release, Easement, and Modification of Mortgage.¶

(c) Dishonored Check.¶

(d) Reissue of Stale, Lost, Destroyed or Missing Document.¶

(e) Mineral Rights and Geothermal Resource Rights Release.¶

(f) Borrower requests to cancel private mortgage insurance.¶

(g) Dishonored Electronic Funds Transfer.¶

(2) The fee will not be waived or reduced except when in the Director's opinion, requiring the fee would cause an undue hardship. In the case of a dishonored check, the fee will be waived if the check was dishonored because of a bank error.¶

(3) Fee Schedule:¶

(a) New Loan Fees.¶

(A) A credit report fee may be charged in an amount not to exceed the amount charged by the credit-reporting firm. A credit report fee may be charged for each applicant unless a co-applicant is the applicant's spouse.¶

(B) An appraisal report fee may be charged in an amount not to exceed the amount charged by the appraiser or actual cost.¶

(C) In the event of cancellation of the application after acceptance for processing and collection of credit report and appraisal fees, any money not used or obligated for credit reports or appraisals shall be refunded to the borrower.¶

(D) The loan fee will not exceed two percent (2%) of the loan amount;¶

(E) Flood determination fee for each loan may be charged in an amount not to exceed the amount charged by the flood determination company;¶

(F) A processing fee in the amount of \$600 will be charged for processing, document preparation, or other services.¶

(b) Partial Release, Easement, and Modification of Mortgage Fees:¶

(A) \$450 plus the cost of an appraisal for a partial release or modification of mortgaged property. The appraisal fee will be refunded to the applicant if the request is withdrawn before the Director is obligated to an appraiser for the cost of a property appraisal.¶

(B) \$50 for consenting to an easement.¶

(C) \$100 for partial release involving release of a manufactured home that will be replaced with another home.¶

(D) \$1,100 for a partial release involving release of water rights. \$1,000 of the \$1,100 fee will be refunded if the request is withdrawn before the Director is obligated to an appraiser for the cost of a property appraisal. An appraisal required by the Director will be at the cost of the applicant.¶

(E) A larger fee may be charged in complex cases to cover extra processing costs.¶

(F) A fee for the partial release of property to a government entity for public use as noted in Chapter 238 Oregon Laws 1995. This fee may be modified or waived at the discretion of the Director.¶

(c) Dishonored Check Fee. Whenever a bank check issued in payment of an obligation due to the Director of Veterans' Affairs is dishonored by the bank upon which the check is drawn, a fee in the amount of \$25 will be charged. If two dishonored checks are received from the same borrower within a 12-month period, the Director may require this borrower to make all future payments by cash, money order, cashier's check or certified check;¶

(d) Reissue of Stale, Lost, Destroyed or Missing Document Fee. Whenever a document issued by the Director must be reissued because it has been outstanding too long without being used, or has been lost, destroyed or for some other reason is missing, a fee in the amount of \$50 may be charged for this service. "Document" means deed, satisfaction of mortgage, satisfaction of judgment, request for reconveyance, reconveyance, assumption agreement, contract, partial release, modification of mortgage, escrow closing papers (or some other document substantially the same as the ones enumerated). This fee may be waived if there is good reason to believe that the person requesting the reissue was not responsible for the delay that caused the document to become stale or for the disappearance of the original issue;¶

(e) Release of Mineral Rights and Geothermal Resource Rights Fees. The Director may charge a fee of \$150 for processing an application for release of mineral and geothermal resource rights. From this fee, the Department will pay the cost of recording any document issued. An additional \$100 may be charged if the nature of the

application requires a review by the Division of State Lands to determine the mineral and geothermal resource potential. A check or money order in the amount of \$100 made payable to the Division of State Lands will be required when the Division of State Lands review is necessary.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075 to 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0230

RULE SUMMARY: Establishes Directors authority to make decisions on all controversies in loans

CHANGES TO RULE:

274-050-0230

Directors Decisions Control in All Controversies

(1) The Director shall make all determinations as to the applicant's eligibility for a loan.¶

(2) The Director shall make all determinations, based upon data and information in the file, as to whether the property offered as Security is acceptable Security and whether or not a loan shall be made.¶

(3) The Director's decision shall be final in all matters pertaining to eligibility and the making of a loan.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407

RULE SUMMARY: Establishes how reviews for loan determination are conducted

CHANGES TO RULE:

274-050-0235

Review of Loan Determination and Other Decisions

(1) Any person adversely affected by a decision of a Department official may write a letter of complaint to the Director. The Director or other designated official shall prepare and deposit in the ordinary mail, or personally deliver, a written response within 30 days of receipt of the written complaint.¶¶

(2) If the Director, or other designated official supports the decision, a request may be made for an informal hearing to be held before the designated official at the Oregon Department of Veterans' Affairs Office, located at 700 Summer Street, NE, Salem, Oregon 97301-1285. With the consent of the party requesting an informal hearing, the hearing may be conducted by video or telephone.¶¶

(3) A request for an informal hearing shall be addressed to the Director and shall state the nature of the adverse decision, the date of and the person making the decision, and how the person requesting the hearing is adversely affected. The Director must receive a request for an informal hearing within 60 days of the date of mailing or personal delivery of the response, provided for by section (1) of this rule. If no letter of complaint was ever written, the requirement for a letter of complaint may be waived, and the request for an informal hearing considered if the request is received by the Director within 90 days of the date of the decision leading to the request for an informal hearing. Unless the Department received written notice of a complaint, the right to a hearing (both informal and contested) shall expire 90 days after the date the complainant had actual knowledge of, or by the exercise of due care would have had knowledge of, the occurrence in dispute.¶¶

(4) Within 30 days from receipt of a request for an informal hearing, the Director shall, by mail, notify the person making the request of the action taken on the request which may be:¶¶

(a) Designating an official to conduct an informal hearing:¶¶

(b) Reversing or modifying the adverse decision:¶¶

(c) Denying the request.¶¶

(5) Any denial of a request for an informal hearing shall state the reason for the denial. A request for an informal hearing may be denied if the Director finds:¶¶

(a) Litigation involving the issue in dispute is pending or imminent;¶¶

(b) The person making the request is not the person who would directly benefit from a modification or reversal of the adverse decision (not the real party in interest);¶¶

(c) A modification or reversal of the decision would affect persons who would not be bound by the modification or reversal (the Director is lacking power to resolve the dispute);¶¶

(d) The Director did not receive the request within the time allowed by section (3) of this rule.¶¶

(6) If an official is designated to conduct an informal hearing, the person requesting the hearing shall be notified by mail of the name and title of the official designated and the time and place for the hearing. A time for the hearing must be scheduled within 60 days of the hearing request unless otherwise mutually agreed by the parties.¶¶

(7) After conducting an informal hearing, the designated official shall prepare and submit to the Director for approval a written decision. Within 30 days after conducting an informal hearing, a decision approved by the Director shall be mailed to the person for whom the hearing was conducted.¶¶

(8) A decision of the designated official, after approval by the Director, shall be final except when, as defined by ORS 183.310(2), a "Contested Case" exists.¶¶

(9) When a "Contested Case" exists, and a contested case hearing is desired, it must be requested in writing and the request received by the Director within 20 days of the date of the mailing of the decision of the designated official if an informal hearing has been held, or within 20 days of service of the notice in a contested case under ORS 183.415.¶¶

(10) Contested case hearings will be conducted in accordance with the provisions of ORS 183.413 to 183.470 and the Attorney General's Model Rules of Procedure, OAR 137-003-0001 to 137-003-0092.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 183, ORS 406.030, ORS 407.115

Statutes/Other Implemented: ORS 407

ADOPT: 274-050-0240

RULE SUMMARY: This subsection of division 50 is established to administer the provisions of Article XI-A of the Constitution of the State of Oregon as it applies to ORS Chapter 407

CHANGES TO RULE:

274-050-0240

Purpose and Objective

(1) This subsection of division 50 is established to administer the provisions of Article XI-A of the Constitution of the State of Oregon as it applies to ORS Chapter 407. These rules, together with the Processing Manual, shall implement the Veterans' Home Improvement Loan Program.¶

(2) The Veterans' Home Improvement Loan Program's objective is to provide funds to finance qualified improvements of owner occupied, residential housing for qualified veterans in the State of Oregon. No improvement will be financed that is inconsistent with the provisions of ORS Chapter 407, applicable federal tax laws, the Processing Manual and any subsequent changes as they are effected. ¶

(3) To the extent practical, and except as otherwise provided in this subsection, the rules in OAR 274-050-0001 to 274-050-0240, including those governing eligibility, application, Security, ALTA Mortgagee's Title Insurance, Appraisal, Loan Cancellation Life Insurance, Property Taxes, Hazard Insurance, Flood Insurance, Escrow Payment and escrow accounts apply to the Veterans' Home Improvement Loan Program.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.125, Art. XI-A OR Const.

Statutes/Other Implemented: ORS 407.115, ORS 407.125, Art. XI-A OR Const.

ADOPT: 274-050-0245

RULE SUMMARY: Establishes the interest rate on Veterans' Home Improvement Loans

CHANGES TO RULE:

274-050-0245

Interest Rate

As provided by ORS 407.327, the interest rate on Veterans' Home Improvement Loans for which applications are received on or after June 29, 2001 shall be fixed and consistent with OAR 274-050-0090.

Statutory/Other Authority: ORS 406.030, ORS 407.115, Art. XI-A OR Const.

Statutes/Other Implemented: Art. XI-A OR Const.

ADOPT: 274-050-0250

RULE SUMMARY: Establishes Terms of Veterans' Home Improvement Loan

CHANGES TO RULE:

274-050-0250

Terms of Veterans Home Improvement Loan

- (1) The veterans' home improvement loan must be placed in the first lien position on the security or be an immediate subsequent lien to an existing Department lien. The first Department lien and any immediate subsequent lien made on the Security by the Director shall be deemed collectively as a first lien on the Security.¶
- (2) The Net Appraised Value will be used as the basis for determining the maximum Veterans' Home Improvement Loan subject to statutory limitations and remaining loan right.¶
- (3) When a Veterans' Home Improvement Loan is made on a Security with balance owed to the Director on an Existing Loan, the total of the unpaid balance of the Existing Loan and the Veterans' Home Improvement Loan shall not exceed 80 percent of the Net Appraised Value as determined by the Director.¶
- (4) When a Veteran' Home Improvement Loan is made on a property where no balance is owing, the Veterans' Home Improvement loan shall not exceed 97 percent of the Net Appraised Value as determined by the Director. If the Loan-to-Value ratio is greater than 80 percent of the Net Appraised Value, the loan must be insured by mortgage insurance consistent with ORS 407.485.¶
- (5) The borrower shall not receive any cash back from the Veterans' Home Improvement Loan.¶
- (6) All existing nonamortizing Department loans on the Security must be reamortized to bring the principal and interest payment and final payment date into conformance with Department policy as identified in the Processing Manual. All other terms of the Existing Loan on the Security remain unchanged.¶
- (7) Depending upon the loan amount, the maximum term of a Veterans' Home Improvement Loan may not exceed 20 years.¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ORS 406.030, ORS 407.115, ORS 407.125, Art. XI-A OR Const.

Statutes/Other Implemented: ORS 407.115, ORS 407.125, Oregon Constitution Article XI-A

ADOPT: 274-050-0255

RULE SUMMARY: Establishes Purpose and Objective for ODVA Home Loan Refinance Program

CHANGES TO RULE:

274-050-0255

Veterans Home Loan Refinance Program Purpose and Objective

(1) This subsection of division 50 is established to administer the provisions of Article XI-A of the Constitution of the State of Oregon as it applies to ORS Chapter 407. These rules, together with the Processing Manual, shall implement the Veterans' Home Loan Refinance Program.¶

(2) The Veterans' Home Loan Refinance Program's objective is to provide funds to finance Veterans' Refinance Loans for qualified veterans in the State of Oregon. No Refinance Loan will be financed that is inconsistent with the provisions of ORS Chapter 407, applicable federal tax laws, the Processing Manual and any subsequent changes as they are effected.¶

(3) To the extent practical, and except as otherwise provided in this subsection, the rules in 274-050-0001 to 274-050-0240, including those governing eligibility, application, Security, ALTA Mortgagee's Title Insurance, Appraisal, Loan Cancellation Life Insurance, Property Taxes, Hazard Insurance, Flood Insurance, Escrow Payment and escrow accounts apply to the Veterans' Refinance Loan Program.

Statutory/Other Authority: ORS 407.135, ORS 407.125, ORS 407.085

Statutes/Other Implemented: Art. XI-A OR Const

ADOPT: 274-050-0260

RULE SUMMARY: Establishes Terms of a Refinance Loan

CHANGES TO RULE:

274-050-0260

Terms of a Veterans Refinance Loan

(1) The Veterans' Refinance Loan must be placed in the first lien position on the Security.¶

(2) The Net Appraised Value will be used as the basis for determining the maximum Veterans' Refinance Loan subject to statutory limitations and remaining loan right. The Department may utilize estimates of existing debt and closing costs in calculating the amount of an applicant's Veterans' Refinance Loan. The maximum amount allowed for a Veterans' Refinance Loan may not exceed the least of either the maximum original principal balance permitted on a single-family first mortgage loan by the Federal Housing Finance Agency or the maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans' Affairs for its Home Loan Guaranty Program (38 U.S.C 3701 et seq.; 38 C.F.R part 36).¶

(3) The Veterans' Refinance Loan shall be considered a Rate and Term refinance loan. Rate and Term means that the proceeds of the Veterans' Refinance Loan are limited to paying:¶

(a) An existing first position mortgage lien encumbering the Security;¶

(b) An existing subordinate mortgage lien encumbering the Security, provided the subordinate mortgage was used to purchase the Security;¶

(c) Closing costs for the Veterans' Refinance loan, including reimbursement to the borrower for prepaid costs associated with the financing and closing the Veterans' Refinance Loan; and¶

(d) Surplus cash from closing to the Borrower, not to exceed 1% of the Veterans' Refinance Loan amount.¶

(4) Except as provided in OAR 274-050-0260(3), the borrower shall not receive any cash back from the Veterans' Refinance Loan.¶

(5) The term of a Veterans' Refinance Loan cannot exceed 30 years.

Statutory/Other Authority: ORS 407.135, ORS 407.125, ORS 407.085

Statutes/Other Implemented: ORS 407.115, ORS 407.125, Art. XI-A OR Const.

RULE SUMMARY: Establishes policy on foreclosures and deeded properties

CHANGES TO RULE:

274-050-0265

Foreclosed and Deeded Property

(1) When the Department acquires a property under ORS 407.135 or ORS 145(1), the Director has discretion to sell the property under the provisions of ORS 407.375 or 407.377.¶

(2) When the Department sells a property under the provisions in ORS 407.375, the sale shall be conducted under the following terms:¶

(a) The Department must first offer the property by sealed bid.¶

(b) The Department must advertise and give notice of the sale of the property in the local newspaper at least once during the 15 days prior to the bid opening.¶

(c) The notice shall advise prospective buyers of the following:¶

(A) Of all the bidders who are veterans for a home loan, the veteran who submits the highest bid shall be given the opportunity to purchase the property for the amount of a higher bid submitted by a person who is not a veteran and must submit a matching bid in writing no later than 5:00 p.m. on the date and at the place specified in the notification;¶

(B) The opportunity to submit a matching bid is only available to a veteran purchasing the property solely in his or her own name, or with a lawful spouse;¶

(C) If the highest bid by a non-veteran is not matched by an eligible veteran, the highest bid will be accepted; and¶

(D) State the minimum bid that will be accepted.¶

(d) If no satisfactory bids have been received, the Department may sell the property in a privately negotiated sale consistent with ORS 407.375 at any price the Director determines that will provide an economic benefit to the Veterans' Home Loan Program.¶

(3) When the Department sells a property under the provisions of ORS 407.377, the sale shall be conducted under the following terms:¶

(a) The person with whom the Department has entered into a personal services contract to sell the property must post a "for sale" sign on the property; and¶

(b) The property must be listed and publicly advertised for sale in a manner consistent with current practices for the sale of residential or farm property of real estate brokers licensed by the Oregon Real Estate Agency. .¶

(4) The Department shall sell acquired property by deed with the full purchase price due at closing unless the Director determines a sale by contract will provide a greater economic benefit to the Veterans' Home Loan Program. The Director will determine interest rates for contract sales of Department properties and may apply different rates of interest to different contract sales, except that the interest rate for a contract purchaser who is eligible for a Home Loan Program will be at the interest rate established by OAR 274-050-0090. The Director may consider factors when determining contract interest rates, including, but not limited to:¶

(a) The current value of funds;¶

(b) The projected value of funds;¶

(c) The solvency of the Department's Loan Program;¶

(d) The rates' effect on veterans and other purchasers;¶

(e) Any federal tax law restrictions;¶

(f) Actual or projected conventional mortgage rates;¶

(g) The availability of lendable funds;¶

(h) Actual or projected demand for Department properties;¶

(i) The source(s) of funds; and¶

(j) Whether or not the purchaser is providing any approved "work equity" as part of the down payment on the contract.¶

(5) The Director may change the prescribed rates of interest for contract sales from time to time.¶

(6) The Department will endeavor to record prescribed interest rates as reasonably as it is practical.¶

(7) After the original contract purchase from the State of Oregon, each time ownership of the property is transferred to anyone (veteran or nonveteran), other than the surviving spouse, unremarried former spouse, surviving child, or surviving stepchild of the original contract purchaser, the interest rate from the date of such transfer shall be the same as the then-prevailing interest rate under subsection (3)(a) of this section, or the existing interest rate on the contract, whichever is higher;¶

(8) The Director may modify the terms of the purchase contract if agreeable to all parties.¶

(9) Any contract sale approved by the director requires a minimum down payment of 20% of the purchase price agreed to by the Director and the purchaser.¶

(10) Length: The Director has discretion to set the term length of any contract purchase, taking into account the same factors set out in paragraph (4), above, consideration The maximum length of any contract purchase shall be 30 years. ¶

(11) A purchase of property from the Oregon Department of Veterans' Affairs will not be considered a loan under ORS 407.205.¶

(12) If a prospective purchaser submits more than one bid for the same property, only the highest such bid will be considered.¶

(13) The property will not be sold on contract to anyone who had an interest in the property at the time foreclosure action was commenced or a deed-in-lieu of foreclosure was accepted.

Statutory/Other Authority: ORS 406.005, ORS 407.115

Statutes/Other Implemented: ORS 407.075, ORS 407.385, Oregon Constitution Article XI-A, Section 3

ADOPT: 274-050-0270

RULE SUMMARY: Establishes Escrow Closings of Contract Sales

CHANGES TO RULE:

274-050-0270

Escrow Closings of Contract Sales

(1) All contract sales of real or personal property by the Director of Veterans' Affairs shall be closed by a person or firm licensed as an escrow agent under the Oregon Escrow Law (ORS 696.505 to 696.590) or an attorney at law rendering services in the performance of duties as attorney at law.¶

(2) The purchaser will select the escrow agent or attorney for closing the loan and the purchaser shall pay all escrow fees.¶

(3) The requirement for licensed escrow (or attorney) closing shall not be waived except when in the Director's opinion, requiring such closing would cause an undue hardship.

Statutory/Other Authority: ORS 406

Statutes/Other Implemented: ORS 407.165, ORS 407.169

ADOPT: 274-050-0275

RULE SUMMARY: Establish Mineral Rights and Geothermal Resource Rights

CHANGES TO RULE:

274-050-0275

Mineral Rights and Geothermal Resource Rights

(1) As used in this rule "mineral" means oil, gas, sulfur, coal, gold, silver, copper, lead, cinnabar, iron, manganese and other metallic ore, and any other solid, liquid or gaseous material or substance excavated or otherwise developed for commercial, industrial or construction use from natural deposits, including mineral waters of all kinds. (This is the same definition as used in ORS 273.775.) As used in this rule "mineral" includes sand and gravel.¶

(2) As used in this rule "geothermal resource" means the natural heat of the earth, the energy, in whatever form below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances, but including, specifically:¶

(a) All products of geothermal processes, embracing indigenous steam, hot water and hot brines;¶

(b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;¶

(c) Heat or other associated energy found in geothermal formations; and¶

(d) Any by-product derived from them. (This is the same definition as used in ORS 522.005.)¶

(3) The Director may sell, retain, assign, lease, release, develop, market or otherwise administer any mineral rights and geothermal resource rights obtained by the Department after January 1974 pursuant to ORS 88.720, 406.050, 407.135, or 407.145(1):¶

(a) Prior to a release or transfer of any interest in mineral or geothermal resource rights pertaining to a property of three acres or more in Clatsop, Columbia, or Washington County, or of 40 acres or more in any other county, the Department will request a review and recommendation from the Division of State Lands (DSL) regarding the potential for the occurrence of mineral or geothermal resources with value, excluding soil, clay, stone, sand and gravel. The Department may, but shall not be required to, request a similar review and recommendation from DSL with respect to mineral or geothermal resource rights related to properties of lesser size. In any situation where additional professional services may be required by the Department, the services shall be provided at the expense of the applicant for the release. The Department may then, at the director's discretion, administer such rights consistent with this section in any manner that the director determines will advance the interests of the Oregon War Veterans' Fund, including the release by the Department of all or part of such rights of the related property upon application and payment of the appropriate application fee together with such other consideration, required by the Department;¶

(b) An application for any interest in mineral or geothermal resource rights held by the Department must be completed and submitted directly to the Department together with the documents and other information listed on the application form or otherwise required by the Department, together with the appropriate application fee. Any or all of the application fee may be waived by the Department if such waiver is determined by it to be in the economic interest of the Department, or if the Department determines that it would avoid undue hardship.¶

(4) Upon advice from DSL concerning potential mineral or geothermal resources, the Department may change the acreage review for any county in Oregon at any time by administrative rule.¶

(5) Two years after the effective date of this rule, and each biennium thereafter, the Department and DSL will review the rule and its effects for possible changes.

Statutory/Other Authority: ORS 88.720, ORS 273.775, ORS 406.050, ORS 407.115, ORS 407.135, ORS 407.145, ORS 406.030

Statutes/Other Implemented: ORS 88.720, ORS 273.775, ORS 273.785, ORS 407.135, ORS 407.145

ADOPT: 274-050-0280

RULE SUMMARY: Pursuant to ORS 105.130(5), in any action brought by the State of Oregon by and through the Director, pursuant to the provisions of ORS 105.105 to 105.168, to recover the possession of premises to which the Director is entitled, any officer or employee of the Department is authorized, on behalf of the Director, to:

- (1) File the complaint; and
- (2) Appear in Court for any actions under ORS 105.110, provided that the Attorney General has given written consent to such appearances.

CHANGES TO RULE:

274-050-0280

Forcible Entry and Wrongful Detainer

Pursuant to ORS 105.130(5), in any action brought by the State of Oregon by and through the Director, pursuant to the provisions of ORS 105.105 to 105.168, to recover the possession of premises to which the Director is entitled, any officer or employee of the Department is authorized, on behalf of the Director, to:

(1) File the complaint; and

(2) Appear in Court for any actions under ORS 105.110, provided that the Attorney General has given written consent to such appearances.

Statutory/Other Authority: ORS 88.720, ORS 273.775, ORS 406.030, ORS 406.050, ORS 406.115, ORS 407.135, ORS 407.145

Statutes/Other Implemented: ORS 407.115,, ORS 407.135, ORS 407.145