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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 813
OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

FILED

10/25/2021 4:10 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: OHCS to adopt internal "Veteran" definition to expand housing program access.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/30/2021 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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Oregon Housing and Community Services
Salem, OR 97301

Filed By:
Jacqueline Ladewig
Rules Coordinator

HEARING(S)

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

DATE: 11/15/2021

TIME: 6:00 PM - 7:00 PM

OFFICER: Jaci Ladewig

ADDRESS: ZOOM Virtual Hearing - Registration Required

725 Summer St NE Suite B

Salem, OR 97301

SPECIAL INSTRUCTIONS:

<https://us02web.zoom.us/j/82635556949?pwd=MU5iZkptN3dWYzRocINzU0I0RzJNUT09>

NEED FOR THE RULE(S)

In accordance with House Bill 2094, Oregon Housing and Community Services will define "Veteran" within Rule to address access issues. All agency programs will adopt new "Veteran" definition and clarify verification requirements within each program manual.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

House Bill 2094, 2021 Regular Legislative Session

FISCAL AND ECONOMIC IMPACT:

There are no fiscal or economic impacts, only better access to housing resources.

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).

There is no negative impact to local government and will positively impact those now eligible to access OHCS house resources. Small businesses are not impacted by this rule.

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

no, there is no impact to small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

These rules do not effect the cost of building a 1,200 square foot house on a 6,000 square foot lot.

AMEND: 813-005-0005

RULE SUMMARY: Oregon Housing and Community Service adopts internal "Veteran" definition to expand housing program access. Amending OAR 813-005-005 to include within all housing programs administered by OHCS. All changes are in accordance with House Bill 2094, 2021 Regular Legislative Session.

CHANGES TO RULE:

813-005-0005

General Definitions update to include 'Veteran' in accordance with House Bill 2094, 2021 Regular Session ¶

The following definitions and those in ORS Chapters 456 and 458 apply to OAR Chapter 813, unless the context indicates otherwise or the term is otherwise defined in a subsequent division:¶

- (1) "Acquisition loan" means a loan for the purpose of financing the purchase of an existing Project.¶
- (2) "Administrative costs" means all costs incurred throughout the administration of a program that are not directly related to the delivery of program services or projects.¶
- (3) "Approved lender" means any person authorized to engage in the business of making loans of the general character of program loans, who meets the qualifications for an approved lender set forth in the applicable program rules and who contracts with OHCS to make program loans.¶
- (4) "Approved servicer" means any person authorized to engage in the business of servicing loans of the general character of program loans, who meets the qualifications for an approved servicer set forth in the applicable program rules and who contracts with OHCS to service program loans.¶
- (5) "Bond" means any bond, note or other evidence of indebtedness issued to obtain funds to provide financing for a program of OHCS as provided in the Act or as further defined by statute.¶
- (6) "Borrower" means an eligible borrower who has received a program loan.¶
- (7) "Break-even occupancy" means the point in time when a project's monthly rental income meets its monthly operating expenses and debt service.¶
- (8) "Commitment" means the written conditional obligation of OHCS to make, purchase, service or sell a program loan or other funding award.¶
- (9) "Community Action Agency" or "CAA" means a private, nonprofit corporation organized under ORS chapter 65, or an office, division or agency of a political subdivision designated as a community action agency pursuant to the Economic Opportunity Act of 1964 by the U.S. Department of Health and Human Services, which meets the requirements outlined in ORS 458.505.¶
- (10) "Community service programs" means activities of OHCS involving the regulation, support, or direct or indirect operation of temporary or permanent placement of individuals into housing, housing stabilization, or that are otherwise defined in statute or described in subsequent divisions in this chapter.¶
- (11) "Conditional" means subject to relevant conditions and documents required for the reservation or award of OHCS funding.¶
- (12) "Construction" has the meaning provided in ORS 456.515.¶
- (13) "Contingency escrow account" means an account generally not to exceed 3% of the initial principal amount of the program loan, established by the sponsor in the form of a savings account, time certificate of deposit, or irrevocable letter of credit assigned to OHCS.¶
- (14) "Contractor" means a person or entity that is held under contract with a hiring entity, including OHCS, to provide prescribed materials, labor, or services.¶

- (15) "Cooperative" is a consumer housing entity formed according to the provisions of ORS Chapter 62, as amended.¶
- (16) "Custodian" has the meaning provided in ORS 192.311.¶
- (17) "Director" means the chief administrative officer of OHCS as defined in ORS 456.515 and described in ORS 456.555.¶
- (18) "Division" means an organizational component or operating unit of Oregon Housing and Community Services. Organizational components within each division include:¶
- (a) "Section"¶
- (b) "Unit"¶
- (19) "Elderly household" means a household residing in the state of Oregon whose head is over the age of 58 or 55, as applicable.¶
- (20) "Eligible borrower" means a person who satisfies the criteria to receive a program loan as set forth in the applicable program rules, statutes or OHCS orders.¶
- (21) "Escrow payments" means the monthly payments made by the sponsor or borrower and placed in an escrow reserve account for the payment of property taxes, insurance premiums and reserve for replacements and other identified costs as required by OHCS in accordance with the program loan.¶
- (22) "Funding documents" means any and all documents required by OHCS to document a housing grant or other funding award or reservation commitment including, but not limited to loan agreements, regulatory agreements, operating agreements, reservation letters, guarantees or otherwise.¶
- (23) "Grantee" means an entity, including but not limited to OHCS, that maintains a grant agreement with a funder to provide program services or reallocate or utilize program funding in a prescribed manner.¶
- (24) "Housing Stability Council" or "Council" or "HSC" means the Oregon Housing Stability Council as provided in ORS 456.515, established in ORS 456.567, and described in ORS 456.555 and 456.571.¶
- (25) "Housing programs" means activities of OHCS involving the financing, regulation, maintenance, or support of housing or home ownership or that are otherwise defined in statute or described in subsequent divisions in this chapter.¶
- (26) "Lending department" means a commercial bank, savings and loan association, savings bank, mortgage banker Federal Housing Administration, Farmers Home Administration or other department that provides permanent or construction mortgage loans.¶
- (27) "Loan agreement" means a written agreement, typically executed at loan closing, between OHCS and a sponsor establishing the terms of any OHCS loan.¶
- (28) "Loan closing" means the disbursement by OHCS of the program loan proceeds after execution and recording of the loan documents.¶
- (29) "Loan documents" means the written agreements by and between the sponsor (and possibly others) and OHCS or in favor of OHCS, typically executed at loan closing, with respect to an OHCS loan and generally including, but not necessarily limited to the promissory note, the loan agreement, the trust deed and the regulatory or operating agreement.¶
- (30) "Manufactured dwelling park" means a project consisting of individual lots and mobile homes located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee, and which complies with all ordinances, plans and codes in the area.¶
- (31) "Multifamily housing" has the meaning provided in ORS 456.515.¶
- (32) "Notice of Funding Availability" or "NOFA" means a notice to eligible applicants and other OHCS program stakeholders of funding availability that constitutes a solicitation document for applications.¶
- (33) "Operating agreement and declaration of restrictive covenants and equitable servitudes" or "operating agreement" means a written agreement typically executed at loan closing between OHCS and the sponsor of a project under OHCS's pass-through revenue bond program and regulating the use of revenues and operation of the project, particularly with respect to tenant income and unit rent compliance by the sponsor.¶
- (34) "Oregon Housing and Community Services" or "Department" or "OHCS" means the department of the state of Oregon established pursuant to ORS 456.555 and described in ORS 456.559.¶
- (35) "Organization" has the meaning provided in ORS 458.610.¶
- (36) "Person" means any natural or legal person.¶
- (37) "Program requirements" means the requirements with respect to any OHCS funding program including, but not limited to, as contained in or arising from applicable administrative rules; solicitation documents; funding documents; OHCS directives; federal, state and local statutes, codes, regulations or determinations; and other applicable law.¶
- (38) "Qualified housing sponsor" has the meaning provided in ORS 456.548.¶
- (39) "Qualified insurer" means the Federal Housing Administration, the Veterans' Administration, or any other person who is authorized to insure or guarantee payment of loans and who is approved by OHCS.¶

- (40) "Recipient" means an entity under contract with OHCS to provide program services or utilize program funding in a prescribed manner.¶
- (41) "Regulatory agreement and declaration of restrictive covenants and equitable servitudes" or "regulatory agreement" means a written agreement typically executed at loan closing between OHCS and a sponsor regulating the use of revenues and operation of the project for which an OHCS loan is issued, particularly pertinent with respect to compliance by the sponsor with maintaining the status of any involved bond issue.¶
- (42) "Regulatory Agreement as to Project Management" or "Management Agreement" means a written agreement typically executed at or after loan closing between OHCS, a project sponsor and, if applicable, a management agent engaged by the sponsor regulating certain aspects of project management to ensure, inter alia, accomplishment of program requirements.¶
- (43) "Rent-up reserve account" means an account set up by a project sponsor and under the control of OHCS to assure sufficient funds to pay operating expenses and debt service of the project before break-even occupancy.¶
- (44) "Rental housing" has the meaning provided in ORS 456.508.¶
- (45) "Replacement cost reserve account" means an account established to aid in payment for extraordinary maintenance or repair of a project or for replacement of capital items of a project as allowed by OHCS.¶
- (46) "Requestor" means the person requesting inspection, copies, or other reproduction of a public record of OHCS.¶
- (47) "Seed money advance" means an advance given to a qualified housing sponsor to pay preconstruction costs.¶
- (48) "Service area" means the specific geographic area or region within which a grantee or subgrantee provides program services directly or by contract.¶
- (49) "Single-family residence" means a housing unit intended and used for occupancy by one household and the property on which it is located. This shall be real property located in the state of Oregon. A single-family residence may include a single-family residence, condominium unit, a dwelling in a planned unit development (PUD), or a mobile or manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and is of a kind customarily used at a fixed location.¶
- (50) "Solicitation" means a request by OHCS for offers, applications, proposals, statements of qualifications, or other information by individuals or entities; or the process of notifying prospective applicants, bidders, or proposers that OHCS requests such offers.¶
- (51) "Solicitation documents" means all of the documents that comprise a solicitation, including, but not limited to, an Invitation to Bid, Request for Proposals, Writing for a Small Procurement, Request for Applications, Emergency Procurement, or other document issued by OHCS to invite offers from prospective applicants, bidders, or proposers.¶
- (52) "Sponsor" means any person meeting the legal, financial, credit and other qualifications to be the borrower on an OHCS loan and to own and operate a project as set forth in the applicable program rules, statutes and OHCS orders.¶
- (53) "Subcontractor" or "subrecipient" means a qualified entity or contractor retained by the prime contractor or recipient, or a qualified entity that is performing services or activities for a grantee or subgrantee.¶
- (54) "Subgrantee" means an organization, as defined in subsection (36) above, with whom OHCS holds a contract or agreement to provide program services.¶
- (55) "Targeted area" means an area in the state designated by OHCS in compliance with the requirements of Section 143(j) of the Internal Revenue Code of 1986, as amended, and approved by the United States Departments of Treasury and Housing and Urban Development.¶
- (56) "Trustee" means the state treasurer or, with the approval of OHCS, a private financial institution in Oregon acting pursuant to an indenture of trust or other appropriate instrument.¶
- (57) "Veteran" means a person who served in the military, naval, or air service that has been discharged or released from that service and has been determined by the United States Department of Veteran's Affairs to be eligible to receive any benefit from that Department.

Statutory/Other Authority: ORS 456.515 - 456.725, 458

Statutes/Other Implemented: 12 CFR 541.25, 24 CFR 5.609, ORS 62.015, 86.205, 90.100, 183.310, 197.015, 315.163, 456.055 - 456.235, 456.270, 456.508, 456.515 - 456.725, 458.505, 458.610, HB 2094 (2021)