

Oregon Housing and Community Services: PuSH Seller’s Tax Credit Manual

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About the PuSH Seller’s Tax Credit

Publicly supported housing (PuSH) refers to any multifamily affordable housing development that receives or benefits from public assistance and involves restrictions that govern the affordability of units through maximum allowable rents.

PuSH includes housing that has a contract with Oregon Housing and Community Services (OHCS) involving affordability restrictions, a contract for project-based rental assistance administered by the U.S. Department of Housing and Urban Development or USDA Rural Development, or subsidies from local government. *See the full definition in [ORS 456.250 \(6\)](#) and more information in [OAR 813-115 Publicly Supported Housing Preservation](#).*

OHCS operates the [PuSH Contract Preservation process](#), which aims to preserve a project’s affordability contract. When affordability restrictions are set to expire, owners must provide notice of the impending expiration to tenants, prospective tenants, OHCS, and local government. OHCS, the local government, or an OHCS designee may make an offer to purchase the property. The owner does not have to accept this offer, but OHCS, the local government, or an OHCS designee have a right of first refusal to match any offers made by other parties. If an offer is matched by OHCS, the local government or an OHCS designee, the owner must accept if they choose to sell.

House Bill 2071, which passed in 2023, directed OHCS to create a funding source to complement the Contract Preservation process. This new resource is the PuSH Seller’s Tax Credit, often called the “preservation tax credit” by advocates during the legislative session.



This new tax credit is available to sellers of publicly supported housing who sell to a purchaser that agrees to maintain affordability restrictions for a period of not less than 30 years. The credit can be used by purchasers as part of their negotiations with the seller, helping them compete with other potential purchasers who may not keep the property affordable.

HB 2071 is codified in ORS 315.281 through ORS 315.291.

OHCS has \$3 million per year to allocate and cannot carry forward unallocated funds to future years.

Eligibility

Transactions that meet the following parameters are eligible to receive the PuSH Seller's Tax Credit:

- The transaction involves publicly supported housing that occurs on or before the expiration of the 2-year right of first refusal window created by the PuSH Contract Preservation regulations (see [ORS 456.262 \(3\)\(d\)](#)) and adopts affordability restrictions for 30 or more years that:
 - Extend existing affordability restrictions that are set to expire, and
 - For any units that did not have existing affordability restrictions, set rents at or below 80% of Area Median Income (AMI).
- The seller cannot be married to, blood-related to, or in a business relationship with the purchaser (have an "identity of interest").
- The tax credit can only be used for a particular property once every 30 years.

Award amounts

Tax credit awards are calculated as a percentage of the sale price or appraisal value, whichever is lower.

These percentages vary based on how long the seller has owned the property. Transactions in which the seller has owned the property for 10 or more years receive 5%, and transactions in which the seller has owned the property for more than 5 years but less than 10 years receive 2.5%. OHCS does not award tax credits to transactions involving properties owned by the seller for less than 5 years.

Tax credit awards can be prorated for out-of-state sellers according to the percentage proportion of their adjusted gross income earned in Oregon (see ORS 316.117). They can also be prorated if a seller's tax year is less than 12 months.

The Department of Revenue can determine the seller is not eligible or is only eligible for a portion of the credit, notwithstanding award by OHCS.

Awardees may not sell the tax credits they receive. They can, however, carry over the credits they receive for up to three additional tax years.

Application process

The PuSH Seller's Tax Credit will be offered through OHCS' Oregon Centralized Application (ORCA) for affordable housing funding. Like all funding available through the ORCA, applicants will be assessed on a first-come, first-reviewed basis. Applications that meet eligibility criteria will be awarded tax credits in the amounts described above.

Purchasers will indicate their interest in the PuSH Seller's Tax Credit in the [Intake Form](#) for the ORCA. The State Tax Credit Program Analyst will then contact the purchaser and invite them to submit an application through Smartsheet.

The application will include:

- Applicant contact information
- Seller information
- Property information
- Eligibility
- Transaction details, including unit mix, affordability restrictions, estimated closing timeline, estimated sale price/appraised value, and estimated amount of credit to be reserved

OHCS will review applications to ensure they meet eligibility criteria, confirm properties are publicly supported housing, and understand if applicants will apply for Preservation funding or other funding from OHCS.

OHCS' Finance Committee will approve the reservation of tax credits for transactions recommended by the State Tax Credit Program Analyst and other applicable OHCS staff.

Receiving a PuSH Seller's Tax Credit reservation does not guarantee, reserve, prioritize, or advantage an applicant in receiving Preservation funding or another funding award from OHCS.

Monthly reporting by applicants to OHCS

If an awarded transaction is cancelled, awardees must make OHCS aware within 30 days so that credits can be reallocated within the calendar year.

To this end, awardees will send OHCS monthly reports on the status of their transaction. Awardees will be prompted to do so through their Procorem WorkCenter.

Awardees are also encouraged to contact the State Tax Credit Program Analyst immediately if the transaction is cancelled.

Notice of final sale

The seller of the awarded property must submit a Notice of Final Sale on a form provided by OHCS within 30 business days of financial closing. OHCS will not provide a certification of the seller's claim to credit before receiving this form.

The Notice of Final Sale asks for transaction details, including final sale price and appraisal value, and information about the entity or entities receiving the tax credit.

The Notice of Final Sale form will be available through the applicant's Procorem WorkCenter.

Rent increase policy

Properties using the PuSH Seller's Tax Credit will be subject to OHCS' Rent Increase Policy, available [on OHCS' website](#).

Compliance

OHCS retains the ability to ensure that properties remain in compliance by undertaking activities including, but not limited to, auditing the files associated with the property (e.g., rents charged and income certifications) and physical conditions of the property, at any time.

If the transaction is awarded other funding from OHCS in addition to the PuSH Seller's Tax Credits, the compliance procedures and requirements associated with the other funding source(s) will apply, to the extent that the compliance procedures and requirements of the other funding source(s) are stricter than those for the PuSH Seller's Tax Credit.

Annual reporting to DOR by OHCS

The State Tax Credit Program Analyst will send the Department of Revenue (DOR) a list of sellers receiving the tax credit with names, addresses, taxpayer identification numbers, and approved amounts of credit by the end of each calendar year.

Collecting data and tracking program impact

The State Tax Credit Program Analyst will track data for the PuSH Seller's Tax Credit, including a list of transactions and amounts awarded, number of units involved, affordability levels, bedroom counts, and length of ownership by the seller.