

9-30

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted on [September 30, 2011] by
Date prior to or same as filing date

OHCs 8-2011(T)

Oregon Housing and Community Services Department	813	
Agency and Division	Administrative Rules Chapter Number	
Sandy McDonnell	725 Summer Street NE, Suite B, Salem, Oregon 97301-1266	503.986-2012
Rules Coordinator	Address	Telephone

to become effective [September 30, 2011] through [March 27, 2012].
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Amends rules to reflect program requirements, industry standards and ensures consistency with statutory requirements
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

AMEND: 813-020-0005, 813-020-0020, 813-020-0025, 813-020-0035, 813-020-0060, 813-020-0070,

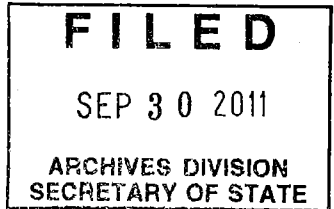
SUSPEND: 813-020-0010, 813-020-0015, 813-020-0016, 813-020-0033

AMEND AND RENUMBER: 813-020-0017 to 813-020-0021, 813-020-0030 to 813-020-0022, 813-020-0040 to 813-020-0046,
813-020-0041 to 813-020-0047, 813-020-0042 to 813-020-0048, 813-020-0032 to 813-020-0049, 813-020-0024 to 813-020-0054,
813-020-0050 to 813-020-0056, 813-020-0051 to 813-020-0057

Stat. Auth.: ORS 456.555

Other Auth.:

Stats. Implemented: ORS 456.620, 456.635 and 456.650



RULE SUMMARY

These rules have been reviewed for statutory compliance and are intended to reflect the operation of the program. In many cases, rules have been renumbered for ease and clarity of the rules.

813-020-0005 Clarifies the purpose and objectives of the rules.

813-020-0010 The definitions for the rules will be centralized in the department's general and procedural rules. This rule has been repealed.

813-020-0015 This rule is repealed as this information is procedural and is contained within the Program's Procedural Guide.

813-020-0020 Amendments clarify the purpose and objective of the rules. Repealed language is procedural and is contained within the Program's Procedural Guide.

813-020-0017 (Renumbered to 813-020-0021) - Amendments clarify the purpose and objective of the rules.

813-020-0030 (Renumbered to 813-020-0022) - Amendments are intended for clarification of the program requirements.

813-020-0025 Clarifies when a loan is eligible for purchase under the program.

813-020-0033 This rule will be repealed. The information is procedural and is contained within the Program's Procedural Guide.

813-020-0035 Amendments are intended to be clarification for the eligibility criteria for residences to participate in the program.

813-020-0045 Amendments are intended to be clarification on lender action on a loan application for the program.

813-020-0040 (Renumbered to 813-020-0046) Amendments include an adjustment of the loan amount for when mortgage insurance may be required.

813-020-0041 (Renumbered for 813-020-0047) Clarifies the requirement for title insurance for loans under the program.

813-020-0042 (Renumbered to 813-020-0048) This rule clarifies the requirement for hazard insurance for loans under the program.

813-020-0032 (Renumbered to 813-020-0040) This rule clarifies the permission use and requirements for property financed by the program.

813-020-0024 (Renumbered to 813-020-0054) Amendments clarify when and the requirements for a borrower to transfer ownership in a property financed by program funds.

813-020-0050 (Renumbered to 813-020-0056) Amendments to these rules clarify approved servicers that may participate under the program.

813-020-0051 (Renumbered to 813-020-0057) Amendments are generally administrative in nature and are intended for clarification.

813-020-0060 Amendments serve to provide clarification and reference to specific regulations that are applicable for qualifications as a "Special Purpose Credit Program."

813-020-0070 Amendments to this rule are intended to clarify any federal eligibility requirements pertinent to participation in the program.


Authorized Signer


Printed name

9/30/11
Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Housing and Community Services

813

Agency and Division

Administrative Rules Chapter Number

813 ORC 0005-0000 9/30/11
In the Matter of: The Amendment of 813-020-0010, 813-020-0020, 813-020-0025, 813-020-0060, 813-020-0070; the Suspension of 813-020-0010, 813-020-0015, 813-020-0016, 813-020-0033; and the Amendment and Renumbering of 813-020-0017 to 813-020-0021, 813-020-0030 to 813-020-0022, 813-020-0040 to 813-020-0046, 813-020-0041 to 813-020-0047, 813-020-0042 to 813-020-0048, 813-020-0032 to 813-020-0049, 813-020-0024 to 813-020-0054, 813-020-0050 to 813-020-0056, 813-020-0051 to 813-020-0057

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

Amends Rules to Reflect Program Requirements, Industry Standards and Ensures Consistency with Statutory Requirements

Statutory Authority: ORS 456.555

Other Authority:

Stats. Implemented: ORS 456.620, 456.635 and 456.650

Need for the Temporary Rule(s): Rules for the program do not reflect the current operation of the program. Amended rules are required to reflect how the program is currently being operated.

Documents Relied Upon, and where they are available:

ORS 456.555 and 456.620, 456.635 and 456.650. These documents can be viewed at Oregon Housing and Community Services Department, 725 Summer Street NE, Suite B, Salem OR 97301-1266 during the normal business hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday (excluding holidays and office closures due to state-mandated furloughs). The Oregon Revised Statutes can also be viewed online at <http://landru.leg.state.or.us/ors/>, the official website for the Oregon Revised Statutes.

Justification of Temporary Rule(s):

The adopted and amended rules will incorporate existing policies and procedures for the operation of the program.


Authorized Signer


Printed name

9/30/11
Date

HOUSING AND COMMUNITY SERVICES DEPARTMENT

DIVISION 20

SINGLE-FAMILY MORTGAGE PROGRAM

813-020-0005

Purpose and Objectives

The rules of OAR Chapter 813, Division 20 establish and implement the Single-Family Mortgage Program. Under the program, the Department purchases loans issued by lenders for acquisition of single family homes in order to encourage and assist moderate- and lower-income persons in Oregon to purchase, improve and rehabilitate owner-occupied new and existing residential housing.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0020

Approved Lenders

(1) A bank, savings bank or other financial institution that is authorized under the laws of a state or of the United States to engage in the business of making secured loans for residential housing may apply to become a lender under the Single Family Mortgage Program. An applicant shall submit to the Department:

- (a) An application in the form prescribed by the Department;
- (b) An opinion by the counsel of the applicant regarding the power and authority of the applicant to enter into a loan purchase agreement with the Department;
- (c) A list of the authorized officers of the applicant and the signature of each officer;
- (d) The most recent audited financial statements of the applicant;
- (e) Documentation evidencing the applicant's bond and insurance coverage; and
- (f) An application charge in an amount established by the Department for its costs of evaluation and administration.

(2) An applicant may qualify as a lender under the program if the Department determines that the applicant:

- (a) Makes loans for single family residences in the regular, usual and normal course of its business;
- (b) Has the capability and resources to originate loans under the program in a sound and professional manner; and
- (c) Has or will have a valid and binding contract with a loan servicer approved by the Department under OAR 813-020-0050.

(3) A determination by the Department under section (2) of this rule is subject to the Department's consideration of factors that include but are not limited to the following:

- (a) The number and experience of employees available to originate program loans;
- (b) The applicant's financial capability to originate program loans;
- (c) The applicant's qualification as a seller or servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing

Administration, or as a "Special Lender" under the federal Servicemen's Readjustment Act;

(d) Whether the applicant's deposits are insured by the Federal Deposit Insurance Corporation; and

(e) The applicant's reputation, experience and performance in the area of residential lending and any other area of the applicant's business.

(4) Before a lender that is qualified by the Department under section (2) of this rule may make a program loan, the lender shall enter into an agreement with the Department providing for the manner and terms of sale of program loans, according to a standard form prescribed by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

813-020-0021

Reservation System

(1) A lender approved by the Department under OAR 813-020-0020 may apply to the Department for a reservation of Department funds with which the Department may purchase a loan made by the lender under the Single Family Mortgage Program. A lender applies for a reservation by submitting to the Department the name of the applicant for the loan, the address of the property to which the loan applies, the amount of the loan, the acquisition cost and any other information and documents requested by the Department.

(2) Program loan funds are reserved on a first-come first-served loan by loan basis, except that the Department may also move to the list of approved loan reservations a reservation from a list of standby reservations established by the Department whenever a standby reservation approved by the Department is cancelled by a lender.

(3) A lender may assign a reservation approved by the Department to another lender approved by the Department if both lenders consent to the assignment in writing and if the Department authorizes the assignment.

(4) A lender shall report and confirm to the Department for each reservation, on a regular basis established by the Department, all of the following information:

(a) The name of the borrower;

(b) The address of the property to which the loan applies;

(c) The loan amount; and

(d) The date on which the loan was cancelled or the dates on which the loan was approved and closed.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.640

813-020-0022

Eligible Borrowers

(1) A person is eligible to receive a loan under the Single Family Mortgage Program if, on the dates of application and loan closing:

(a) The total of the annualized gross household income, from any source and before taxes and withholding, of all non-minor persons who will reside in the single family residence to which the loan applies does not exceed the applicable income limit established by the Department and by the Internal Revenue Code of 1986, as amended;

(b) The person:

(A) Is a resident or intends to be a resident of Oregon;

(B) In good faith intends to occupy the single-family residence as a permanent principal residence;

(C) Possesses the legal capacity to incur the obligations of the program loan;

(D) Has a credit standing acceptable to the Department;

(E) Agrees that any other residential property owned by the person will be sold by the time of closing; and

(F) Meets applicable requirements established by Section 143 of the Internal Revenue Code of 1986, as amended and as described in OAR 813-020-0070, if the program loan is to be made from the proceeds of bonds sold after September 15, 1982.

(2) A loan under the program is also subject to the following provisions:

(a) The application for the loan must be processed according to the rules of this division;

(b) The acquisition cost may not exceed the limit established by the Department and in effect when the loan application is made; and

(c) An applicant for a loan may not have held a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the loan application unless the residence is located within a targeted area as designated under OAR 813-020-0070.

(3) Subject to OAR 813-020-0045 regarding a lender's refusal of a program loan, a lender shall determine the applicant's qualifications to be a borrower under the program.

(4) If a program loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer or guaranteed by the Veterans' Administration or USDA Rural Development, the Department authorizes the lender to accept approval by such a federal agency or a qualified mortgage insurer as satisfactory evidence of the creditworthiness of the applicant. In all other instances, a lender must determine the acceptability of the applicant's credit standing after thoroughly evaluating the applicant's credit, taking into account such factors as:

(a) The ratio between the applicant's stable monthly income and estimated housing expenses, including repayment of the program loan and any secondary housing debt financing;

(b) The ratio between the applicant's stable monthly income and the estimated monthly payments on all indebtedness of the applicant, including the program loan;

(c) The applicant's ability to accumulate wealth, including funds needed for down payment and closing costs on the program loan;

(d) The history of the applicant's previous ability to meet debt service requirements; and

(e) Any other factors commonly considered by prudent institutional mortgage investors, such as prior bankruptcy of the applicant, history of slow payments on previous obligations, job tenure, frequent changes of residence and the existence of lawsuits, judgments or foreclosures involving the applicant.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0025

Program Loans

(1) A loan under the Single-Family Mortgage Program is eligible for purchase by the Department:

(a) If the borrower holds title to the single-family residence in fee simple or in another form of ownership acceptable to the Department; and

(b) If the loan:

(A) Meets to the satisfaction of the Department the requirements in the purchase agreement between the Department and the lender;

(B) Has a final maturity at least fifteen and not more than forty years from the date of its making;

(C) Is secured by a first lien deed of trust granted by the borrower on the single-family residence financed by the loan; and

(D) Is made solely to finance the purchase, construction or purchase and rehabilitation of an existing or newly constructed single-family residence for use as the permanent, principal residence of the borrower.

(2) A loan may not be made under the program to refinance an existing loan unless the existing loan is a temporary loan with a loan term of 24 months or less for constructing or rehabilitating a single-family residence. The temporary loan also must have been made on or after the commencement date of the commitment term during which the program loan is sold to the Department. If a program loan is made to refinance such a loan, the lender shall certify to the Department that construction or rehabilitation has been satisfactorily completed before the delivery of the program loan for purchase.

(3) A lender may execute a program loan with a borrower only on forms approved by the Department and in a manner satisfactory to the Department. The forms must prescribe program loan requirements regarding insurance, escrow payments, late charges, deficiencies, defaults, priority of liens and similar matters.

(4) The Department may purchase a program loan with a graduated or other payment schedule based on criteria established by the Department.

(5) A program loan is subject to prepayment at the Department's option if at any time the borrower does not reside in the residence financed by the program loan but remains the owner of the residence, or if the lender or Department determines that the borrower was ineligible at the time the loan was made.

(6) To establish the interest rate for a program loan, the Department shall consider the rates of interest on the bonds, prevailing rates for similar loans and the ability of borrowers under the program to afford such rates.

(7) The original principal amount of a program loan and any secondary financing may not exceed 97 percent of property value unless the program loan is insured by the Federal Housing Administration or a qualified mortgage insurer, or guaranteed by the Veterans' Administration or USDA Rural Development. Property value must be calculated on the lesser of the purchase price of the property or its appraised value.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0035

Eligible Residences

(1) A residence is eligible for a loan from the Single-Family Mortgage Program if:

(a) The residence is located in Oregon;

- (b) The residence is structurally sound and functionally adequate;
- (c) The residence is only one single-family residential unit;
- (d) The residence conforms with all applicable zoning requirements, building codes and similar requirements; and
- (e) The acquisition cost, including any deferred, indirect or nonmonetary consideration other than labor of the borrower and the borrower's family, and the appraised value of the residence do not exceed limits established by the Department under this rule.

(2) In addition to the requirements of section (1) of this rule:

(a) If the loan on a residence includes proceeds of bonds sold after September 15, 1982, a residence is eligible for a program loan only if no more than 15 percent of the total living area of the residence is of a character that is subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements, thereby qualifying the use as a deduction for federal income tax purposes under Section 280A of the Internal Revenue Code.

(b) If a residence to which this rule applies is a part of a condominium or planned unit development, the eligibility of the residence for a program loan is subject to a determination by the Department whether granting the loan would result in an excessive percentage of units in the condominium or development that are financed by program loans.

(3) For the purpose of this rule, a determination by the Department of limits on:

(a) The acquisition cost of a residence is subject to consideration of the following factors:

- (A) The cost and condition of housing within the state;
- (B) Income levels established for the program;
- (C) Purchase price limits under applicable federal law; and
- (D) Reasonable down payment requirements.

(b) The appraised value of a residence is subject to limits established by the Department and to consideration of the following factors:

- (A) The cost and condition of housing within the state;
- (B) The market value of such housing, assuming arms'-length sales transactions;
- (C) The probability of non-arms'-length sales transactions;
- (D) The effect of the limits on the lender's ability to originate program loans; and
- (E) The effect of the limits on the security of program loans.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620 & ORS 456.625, 456.635 and 456.640

813-020-0045

Lender Action on Loan Application

(1) A lender shall proceed in good faith to process a loan application under the Single Family Mortgage Program and shall make the program loan if the lender determines that:

- (a) Loan funds are available;
- (b) The application is complete;
- (c) The application appears to comply with the rules of this division and the terms of the applicable loan agreement; and
- (d) The applicant appears to be a borrower who is eligible for a loan under OAR 813-020-0030.

(2) A person who is refused a program loan by a lender may demand of the lender, in writing, a written explanation of the specific reasons for the refusal. The lender shall comply with the demand not later than the 30th day after the date on which the lender receives the demand.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0046

Mortgage Insurance

If the amount of a loan under the Single-Family Mortgage Program is greater than 80 percent of the original acquisition cost or, if lower, its value according to an appraisal acceptable to the Department, the borrower shall obtain and maintain in force mortgage insurance or a guarantee of the program loan by a qualified mortgage insurer. The following requirements apply to the mortgage insurance policy or guarantee:

- (1) The policy must be in effect at the time of sale of the Program Loan to the Department;
- (2) The Department must be named as the mortgagee insured or guaranteed; and
- (3) The amount, terms and extent of coverage of the insurance or guaranty must meet the requirements of the indenture of trust and the bond indenture declaration governing the bonds used for the acquisition of the residence as determined by the Department to provide reasonable security against loss in the event of default.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0047

Title Insurance

A loan under the Single-Family Mortgage Program must be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurance company authorized to transact insurance in Oregon by the Department of Consumer and Business Services. All of the following requirements apply to a title insurance policy under this rule:

- (1) The amount of coverage of the policy must be at least equal to the outstanding principal balance of the program loan.
- (2) The benefits of the policy must run to the Department, as either named insured or assignee.
- (3) The policy may not be subject to any exceptions or conditions other than those previously approved by:
 - (a) The Department;
 - (b) The federal Department insuring or guaranteeing the loan, if any ; or
 - (c) A private mortgage insurer, if any.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0048

Hazard Insurance

A borrower under the Single-Family Mortgage Program must carry hazard insurance on the residence financed by the program loan that meets the requirements of the loan agreement. The hazard insurance must be in effect at the time the program loan is made, and must remain in effect for the term of the program loan.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0049

Permissible Use of Property Financed by a Program Loan

(1) A borrower under the Single-Family Mortgage Program shall continuously occupy the single-family residence financed by the program loan as the borrower's permanent and principal residence during the time the borrower has the program loan, except under the conditions specified in section (2) of this rule. Prior to repayment of the program loan or prior to assumption of the loan when the Department allows assumption, the borrower may not sell, transfer or otherwise dispose of the single-family residence and may not be a party to any formal or informal arrangement to sell, transfer or otherwise dispose of the residence.

(2) A borrower under the program may not vacate, rent or agree to rent the single-family residence during the term of the program loan unless the borrower requests and receives permission from the loan servicer and, if the servicer requires, from the Department.

Permission must be based upon the determination of the servicer, and of the Department when the Department's permission is requested, that one of the following conditions applies:

(a) The borrower is making a good faith effort to sell the residence or refinance the program loan; or

(b) The circumstances causing the borrower to move out of the residence are beyond the borrower's control, including but not limited to any of the following or substantially similar circumstances:

(A) The borrower or the borrower's spouse is drafted into military service;

(B) The borrower or the borrower's spouse is involuntarily transferred by an employer on a temporary basis;

(C) The borrower or the borrower's spouse becomes disabled and needs medical rehabilitation, and consequently cannot live in the residence; or

(D) The borrower or the borrower's spouse must move to finish an educational degree requirement and has taken a temporary leave of absence from employment.

(3) For a determination whether a circumstance under section (2) of this rule applies, the loan servicer or the Department may require evidence from the borrower of continuing sales or refinancing efforts or of the specific circumstances asserted.

(4) A borrower shall submit a request under section (2) of this rule in writing to the loan servicer, and to the Department if the loan servicer requires the Department's permission, one month before the borrower vacates or rents the residence. The borrower may request permission to rent or vacate the residence for a period of time not to exceed one year, and may request additional one-year extensions. Permission to rent or vacate or to extend is subject to a determination by the loan servicer, and by the Department if the Department also granted permission, that the condition under section (2) of this rule as asserted by the

borrower continues to apply. A borrower must submit a request for extension to the servicer, and to the Department when applicable, before the approved period ends.

(5) If a program loan was made from the proceeds of bonds sold after September 15, 1982, the principal residence requirements of Section 143 of the Internal Revenue Code of 1986, as amended, apply instead of the principal residence requirement under this rule. A borrower must submit evidence satisfactory to the Department that the borrower will comply with federal residence requirements.

(6) A borrower who does not comply with a provision of this rule is subject at any time and without notice to acceleration of all payments due under the program loan and to any other remedy or civil penalty allowable by law.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0054

Change of Ownership; Assumptions by Substitution of Liability for a Program Loan

(1) A borrower under the Single-Family Mortgage program may transfer ownership of property financed by a program loan pursuant to an assumption if the Department determines prior to the transfer that the assumption results in a substitution of liability and the purchaser is eligible to be a borrower under OAR 813-020-0030. The assumption may be made subject to the terms of the existing loan without an interest rate increase.

An assumption under this section is also subject to the following provisions:

(a) The application for the assumption must be processed according to the rules of this division, and applicable terms of the agreement between the loan servicer and the Department;

(b) The acquisition cost may not exceed the limit established by the Department and in effect at the time the assumption application is made if the original program loan was made from the proceeds of bonds sold after September 15, 1982;

(c) An applicant for an assumption may not have held a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the assumption unless:

(A) The original program loan was made from the proceeds of bonds sold on or before September 15, 1982; or

(B) The residence is located within a targeted area as designated under OAR 813-020-0070; and

(d) The borrower must have an annualized gross household income that does not exceed certain limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended.

(2) An assumption under this rule is not subject to a minimum down payment requirement if no secondary financing is involved in the transaction. If any part of a down payment is to be provided by secondary financing, the purchaser shall make at least a five percent down payment from liquid assets or cash equity, calculated on the current purchase price of the residence to which the assumption applies. Secondary financing under this section must amortize over a specified period and may not provide for a balloon payment.

(3) A loan servicer may collect fees on an assumption under this rule as follows:

(a) The servicer may collect a nonrefundable assumption application fee. The fee, including the credit report fee, may not exceed \$150. If the assumption is denied, the loan servicer may retain the portion of the fee not applied to the costs of the credit report. If the assumption is approved, the loan servicer shall apply the portion not applied to the costs of the credit report as a credit to the processing fee allowed under subsection (b) of this section.

(b) The servicer may charge a fee for processing an assumption. The fee on a conventional loan may be one percent of the loan balance or \$400, whichever is greater, but may not exceed the customary fees charged in the geographic area for assumptions on mortgage loans owned by private lenders. The processing fee on a loan insured by the Federal Housing Administration (FHA) may not exceed the usual and customary fees allowed. A fee charged under this subsection must be commensurate with the work on the loan by the servicer.

(4) A loan servicer for an assumption under this rule shall make any necessary disclosures, ensure that all insurance policies reflect the new ownership and take any action necessary to continue the benefits of the mortgage insurance or guaranty without interruption.

(5) An assumption transaction must retain the Department's original loan number.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0056

Approved Servicers

(1) A bank, savings bank or other financial institution that is authorized under the laws of a state or of the United States to engage in the business of servicing loans for residential housing may apply to become a loan servicer under the Single-Family Mortgage Program by submitting the following to the Department:

- (a) An application in the form prescribed by the Department;
- (b) An opinion by the counsel of the applicant regarding the power and authority of the applicant to enter into a loan servicing agreement with the Department;
- (c) A list of the authorized officers of the applicant and the signature of each officer;
- (d) The most recent audited financial statements of the applicant;
- (e) Documentation evidencing bond and insurance coverage;
- (f) An application charge in an amount established by the Department for its costs of evaluation and administration; and
- (g) Documentation indicating the volume of residential loans produced by the applicant's mortgage lending offices in Oregon.

(2) An applicant under section (1) of this rule must demonstrate to the Department's satisfaction that:

- (a) One of the applicant's principal functions is servicing loans secured by residential real estate;
- (b) Such servicing is a customary and regular business activity of the applicant;
- (c) The applicant is qualified to engage in servicing mortgage loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and is, if required, a mortgagee approved by the Federal Housing Administration or Veterans' Administration;

(d) The applicant deposits funds to accounts in depositories that comply with the requirements of ORS 295.002, 295.005, 295.015 to 295.018 and 295.205 and that are insured to the full extent legally possible by the Federal Deposit Insurance Corporation or other similar federal insuring Department; and

(e) The applicant will maintain servicing facilities adequately staffed with trained personnel familiar with all rules, regulations and requirements pertaining to or affecting program loans.

(3) An applicant may service program loans if the Department determines that an applicant is qualified to service program loans and if the applicant enters into an agreement with the Department to service program loans according to a standard form prescribed by the Department.

(4) A program loan servicer may assign program loan servicing to another servicer upon written approval by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0057

Program Loan Servicing

(1) A program loan servicer shall service a loan under the Single-Family Mortgage Program in accordance with the servicing agreement and the rules of this division.

(2) A program loan servicer shall charge for loan servicing according to uniform servicing rates established by the Department that are based on the estimated costs of servicing program loans and prevailing rates for similar services.

(3) For the term of a program loan, the borrower shall make monthly escrow payments for real estate property taxes and assessments, hazard insurance premiums and, if necessary, mortgage insurance premiums, except as otherwise provided in the terms of the loan agreement. A program loan servicer may pay interest on program loan escrow reserve accounts at its option.

(4) Upon approval by the Department, a program loan servicer may take one or more actions to protect the Department's security in a residence financed by a program loan. The actions may include but are not limited to the following:

(a) Loan modification;

(b) Property maintenance and repair;

(c) Foreclosure or deed-in-lieu of foreclosure proceedings; and

(d) Representation of the Department's interest in bankruptcy proceedings.

(5) If a program loan servicer fails to comply with the Department's servicing, reporting or remittance requirements, the Department may assess a penalty or may terminate the servicing agreement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0060

Qualifications as a "Special Purpose Credit Program"

The Single-Family Mortgage Program is meant to and does benefit an economically disadvantaged class of persons. As such, the Department establishes the program as a "special purpose credit program" to satisfy the requirements of Interpretation Section

202.8(a)(1) of Regulation B of the Federal Equal Credit Opportunity Act. (U.S.C. 15, Chapter 41, Subchapter 4, Paragraph 6091.)

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640

813-020-0070

Federal Eligibility Requirements

(1) Section 143 of the **Internal Revenue Code of 1986**, as amended, requires the Department to meet the following requirements for each loan made under the Single-Family Mortgage Program in order to preserve the federal tax exemption for bonds issued to finance program loans:

(a) The residence financed by a program loan must be used as a qualifying principal residence by the borrower;

(b) A person who has held a present ownership interest in a principal residence at any time within the three years preceding the date of a loan closing may not obtain a program loan except as authorized in sections (2) and (3) of this rule;

(c) The acquisition cost of a residence financed by a program loan may not exceed the limits established by the Department pursuant to the Internal Revenue Code of 1986, as amended for new and existing Single-Family Residences;

(d) Only a new mortgage may be financed, except as provided in OAR 813-020-0025(2); and

(e) A borrower must have an annualized gross household income that does not exceed limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended; and

(f) The assumption of a program loan is prohibited unless each person assuming the loan meets the requirements of this section:

(2) A lender may approve a program loan to a person who has held a present ownership interest in a principal residence at any time within the preceding three years subject to a determination by the Department that takes into account the federal restrictions on the aggregate dollar volume of such loans for a specific commitment and the circumstances of the prior ownership. The Department may give preference to applicants who have lost prior ownership interests involuntarily, as through divorce settlements, eminent domain proceedings or similar circumstances.

(3) In certain Targeted Areas, a higher maximum Acquisition Cost may be applicable and the limitation with respect to prior home ownership does not apply. Certain census tract areas are designated as Targeted Areas by Section 143 of the Internal Revenue Code of 1986, as amended. The Department may apply for approval of additional or revised Targeted Areas after considering certain statutory variables. In designating such areas, the Department shall solicit requests from all cities within the state, and apply certain criteria specified by the United States Department of Housing and Urban Development for such purpose to other urban and non-urban areas. The Department shall submit its findings for approval by the Secretary of the United States Department of Housing and Urban Development and the Secretary of the United States Treasury. The Department shall retain a current list of designated Targeted Areas.

(4) The Department is required to establish procedures that ensure compliance with applicable requirements of Section 143 of the Internal Revenue Code of 1986, as

amended. Any failure to meet these requirements shall be corrected within a reasonable time. The Department shall grant no exceptions or waivers unless allowed by federal law.

(5)(a) When authorized by federal law, the Department may elect to credit certain amounts that may become available to its eligible borrowers, rather than to the United States Treasury. The Department shall periodically determine the overall amounts subject to credit. The Department shall distribute any credits in compliance with federal law, taking into consideration such factors as the security of its bonds, the ability of borrowers to repay program loans, fluctuations in market interest rates and other factors that may affect the Department's ability to achieve its purpose and objectives.

(b) When required by federal law, the Department shall calculate and rebate certain amounts, if any, to the United States Treasury.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 and 456.640