

Senate Bill 299

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits facially neutral housing policy that adversely impacts disabled persons or other persons due to their race, color, sex, marital status, source of income, familial status, religion or national origin to greater extent than it adversely impacts persons generally.

Prohibits discrimination against disabled persons or discrimination due to race, color, sex, marital status, source of income, familial status, religion or national origin by multiple listing service, real estate brokers' organization or other service, organization or facility relating to business of selling or renting dwellings.

Requires Commissioner of Bureau of Labor and Industries to investigate complaint of discrimination within 30 days of filing of complaint.

Allows court trial for violation. Allows attorney fees. Imposes civil penalties.

Reactivates property tax exemption for single-unit housing in distressed urban areas. Extends period during which applications for exemption may be made.

Permits condominiums to be eligible for either single-unit or multiple-unit housing property tax exemption.

Creates crime of housing intimidation. Punishes by maximum imprisonment of one year, \$6,250 fine, or both. Under certain aggravated circumstances, punishes by maximum imprisonment of 10 years, \$250,000 fine, or both.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to housing; creating new provisions; amending ORS 90.390, 161.005, 307.675, 458.005, 458.010, 458.015, 458.020, 458.025, 458.035, 458.040, 458.045, 458.050, 458.060, 458.065, 659A.145, 659A.421, 659A.820, 659A.835, 659A.845, 659A.850, 659A.855, 659A.870 and 659A.885; repealing ORS 659A.424; and prescribing an effective date.

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

DISPARATE ADVERSE IMPACT OF FACIALLY NEUTRAL HOUSING POLICY

SECTION 1. ORS 659A.145 is amended to read:

659A.145. (1) A person, because of a disability of a purchaser, lessee or renter, a disability of a person residing in or intending to reside in a dwelling after it is sold, rented or made available or a disability of any person associated with a purchaser, lessee or renter, *[shall]* **may** not discriminate by:

(a) Refusing to sell, lease, rent or otherwise make available any real property to a purchaser, lessee or renter;

(b) Expelling a purchaser, lessee or renter;

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) Attempting to discourage the sale, rental or lease of any real property.

2 (2) For purposes of this *[subsection]* **section**, discrimination includes:

3 (a) A refusal to permit, at the expense of the disabled person, reasonable modifications of ex-
4 isting premises occupied or to be occupied by *[such]* **the** person if *[such]* **the** modifications may be
5 necessary to afford *[such]* **the** person full enjoyment of the premises, except that, in the case of a
6 rental, the landlord may, when it is reasonable to do so, condition permission for a modification on
7 the renter agreeing to restore the interior of the premises to the condition that existed before the
8 modification, reasonable wear and tear excepted; or

9 (b) A refusal to make reasonable accommodations in rules, policies, practices or services when
10 *[such]* **the** accommodations may be necessary to afford *[such]* **the disabled** person equal opportunity
11 to use and enjoy a dwelling.

12 **(3)(a) A person may not apply a facially neutral housing policy to a disabled person if the**
13 **application of the policy adversely impacts the disabled person to a greater extent than it**
14 **adversely impacts persons generally.**

15 **(b) As used in this subsection, “facially neutral housing policy” means a policy, practice,**
16 **rule or screening or admission criterion that is related to the sale, rental, lease or occupancy**
17 **of real property or to transactions related to residential real property and that, by its terms,**
18 **applies equally to all persons.**

19 *[(3)]* **(4)** A person *[shall]* **may** not publish, circulate, issue or display or cause to be published,
20 circulated, issued or displayed any communication, notice, advertisement[,] or sign of any kind re-
21 lating to the sale, rental or leasing of real property *[which]* **that** indicates any preference, limitation,
22 specification or discrimination against a disabled person.

23 *[(4)]* **(5)** A person whose business includes engaging in residential real estate related trans-
24 actions, as defined in ORS 659A.421 (2)(b), *[shall]* **may** not discriminate against any person in making
25 **a transaction** available *[such a transaction]*, or in the terms or conditions of *[such a]* **the** trans-
26 action, because of a disability.

27 *[(5)]* **(6)** A real estate broker or principal real estate broker *[shall]* **may** not accept or retain a
28 listing of real property for sale, lease or rental with an understanding that the purchaser, lessee or
29 renter may be discriminated against solely because a person is a disabled person.

30 **(7) A person may not deny access to, or membership or participation in, any multiple**
31 **listing service, real estate brokers’ organization or other service, organization or facility**
32 **relating to the business of selling or renting dwellings, or discriminate against any person**
33 **in the terms or conditions of the access, membership or participation, because that person**
34 **is a disabled person.**

35 *[(6)]* **(8)** A person *[shall]* **may** not assist, induce, incite or coerce another person to permit an
36 act or engage in a practice that violates this section.

37 *[(7)]* **(9)** A person *[shall]* **may** not coerce, intimidate, threaten or interfere with any person in
38 the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having
39 aided or encouraged any other person in the exercise or enjoyment of, any right granted or pro-
40 tected by this section.

41 *[(8)]* **(10)** A person *[shall]* **may** not, for profit, induce or attempt to induce any other person to
42 sell or rent any dwelling by representations regarding the entry or prospective entry into the
43 neighborhood of a disabled person or persons.

44 *[(9)]* **(11)** Any violation of this section is an unlawful practice.

45 **SECTION 2.** ORS 659A.421 is amended to read:

1 659A.421. (1) [No] **A person [shall] may not**, because of race, color, sex, marital status, source
2 of income, familial status, religion or national origin of any person:

3 (a) Refuse to sell, lease or rent any real property to a purchaser.

4 (b) Expel a purchaser from any real property.

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

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

9 (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
10 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing
11 of real property [which] **that** indicates any preference, limitation, specification or discrimination
12 based on race, color, sex, marital status, source of income, **familial status**, religion or national or-
13 igin.

14 (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that
15 violates this subsection [and] **or** subsection (3) **or** (5) of this section.

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

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

23 (2)(a) [No] **A person** whose business includes engaging in residential real estate related trans-
24 actions [shall] **may not** discriminate against any person in making **a transaction** available [such a
25 transaction], or in the terms or conditions of [such a] **the** transaction, because of race, color, sex,
26 marital status, source of income, familial status, religion or national origin.

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

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

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

31 (ii) For securing residential real estate; or

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

33 (3) [No] **A real estate licensee [shall] may not** accept or retain a listing of real property for
34 sale, lease or rental with an understanding that a purchaser may be discriminated against with re-
35 spect to the sale, rental or lease thereof because of race, color, sex, marital status, source of income,
36 familial status, religion or national origin.

37 (4) [No person shall] **A person may not**, for profit, induce or attempt to induce any other person
38 to sell or rent any dwelling by representations regarding the entry or prospective entry into the
39 neighborhood of a person or persons of a particular race, color, sex, marital status, source of in-
40 come, familial status, religion or national origin.

41 **(5)(a) A person may not apply a facially neutral housing policy to another person if the**
42 **application of the policy adversely impacts the other person to a greater extent than it ad-**
43 **versely impacts persons generally because of the race, color, sex, marital status, source of**
44 **income, familial status, religion or national origin of the other person.**

45 **(b) As used in this subsection, "facially neutral housing policy" means a policy, practice,**

1 **rule or screening or admission criterion that is related to the sale, rental, lease or occupancy**
 2 **of real property or to transactions related to residential real property and that, by its terms,**
 3 **applies equally to all persons.**

4 [(5)] (6) For purposes of subsections (1) to [(4)] (5) of this section, “source of income” does not
 5 include federal rent subsidy payments under 42 U.S.C. 1437f, income from specific occupations or
 6 income derived in an illegal manner.

7 [(6)] (7) Subsections (1), [and] (3) **and** (5) of this section do not apply with respect to sex dis-
 8 tinction, discrimination or restriction if the real property involved is such that the application of
 9 subsections (1), [and] (3) **and** (5) of this section would necessarily result in common use of bath or
 10 bedroom facilities by unrelated persons of opposite sex.

11 [(7)(a)] (8)(a) This section does not apply to familial status distinction, discrimination or re-
 12 striction with respect to housing for older persons.

13 (b) As used in this subsection, “housing for older persons” means housing:

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

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

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

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

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

23 (c) Housing [shall] **does** not fail to meet the requirements for housing for older persons if:

24 (A) Persons residing in [such] **the** housing as of September 13, 1988, do not meet the require-
 25 ments of paragraph (b)(B) or (C) of this subsection. However, new occupants of [such] **the** housing
 26 shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

27 (B) The housing includes unoccupied units[. *However, such*] **and the** units are reserved for oc-
 28 cupancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

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

31 [(8)] (9) In the sale, lease or rental of real estate, [no person shall] **a person may not** disclose
 32 to any person that an occupant or owner of real property has or died from human immunodeficiency
 33 virus or acquired immune deficiency syndrome.

34 [(9)] (10) The provisions of subsection (1)(a) to (d) and (f) of this section that prohibit actions
 35 based upon familial status or sex do not apply to the renting of space within a single-family resi-
 36 dence if the owner actually maintains and occupies the residence as the owner’s primary residence
 37 and all occupants share some common space within the residence.

38 [(10)] (11) Any violation of this section is an unlawful practice.

39 **SECTION 3.** ORS 659A.820 is amended to read:

40 659A.820. (1) Any person claiming to be aggrieved by an alleged unlawful practice may file with
 41 the Commissioner of the Bureau of Labor and Industries a [verified] written complaint that states
 42 the name and address of the person alleged to have committed the unlawful practice. The complaint
 43 may be signed by the complainant or the attorney for the complainant. The complaint must set forth
 44 the acts or omissions alleged to be an unlawful practice. The complainant may be required to set
 45 forth in the complaint such other information as the commissioner may require. Except as provided

1 in ORS 654.062, a complaint under this section must be filed no later than one year after the alleged
2 unlawful practice.

3 (2) A complaint may not be filed under this section if a civil action has been commenced in state
4 or federal court alleging the same matters.

5 (3) [Any] **If an employer [whose] has one or more employees[, or any of them,] who** refuse or
6 threaten to refuse to abide by the provisions of this chapter or to cooperate in carrying out the
7 purposes of this chapter, **the employer** may file with the commissioner a [verified] complaint re-
8 questing assistance by conciliation or other remedial action.

9 (4) **Except as provided in subsection (5) of this section**, the commissioner shall notify the
10 person against whom a complaint is made within 30 days of the filing of the complaint. The
11 [notice] **commissioner** shall include **in the notice** the date, place and circumstances of the alleged
12 unlawful practice.

13 (5) **The commissioner shall notify the person against whom a complaint alleging an un-**
14 **lawful practice under ORS 659A.145 or 659A.421 is made within 10 days of the filing of the**
15 **complaint. The commissioner shall include in the notice:**

16 (a) **The date, place and circumstances of the alleged unlawful practice; and**

17 (b) **A statement that the person against whom the complaint is made may file an answer**
18 **to the complaint.**

19 **SECTION 4.** ORS 659A.835 is amended to read:

20 659A.835. (1) **Except as provided in subsection (2) of this section**, after the filing of any
21 complaint under ORS 659A.820 or 659A.825, the Commissioner of the Bureau of Labor and Industries
22 may investigate the complaint. *[If by reason of the investigation the commissioner determines that*
23 *additional persons should be named as respondents in the complaint, the commissioner may add the*
24 *names of those persons to the complaint as respondents. The commissioner may name additional per-*
25 *sons as respondents under this subsection only during the course of the investigation.]*

26 (2) **The commissioner shall commence an investigation of any complaint filed under ORS**
27 **659A.820 or 659A.825 alleging an unlawful practice under ORS 659A.145 or 659A.421 within 30**
28 **days of the filing of the complaint.**

29 (3) **If, by reason of an investigation under this section, the commissioner determines that**
30 **additional persons should be named as respondents in the complaint, the commissioner may**
31 **add the names of those persons to the complaint. The commissioner may name additional**
32 **persons as respondents under this subsection only during the course of the investigation.**

33 [(2)] (4) If an investigation under this section discloses any substantial evidence supporting the
34 allegations of a complaint, the commissioner shall issue a finding of substantial evidence. The find-
35 ing must be sent to the respondent and the complainant and must be signed by the commissioner
36 or the commissioner's designee. The finding must include at least the following information:

37 (a) The names of the complainant and the respondent;

38 (b) The allegations contained in the complaint;

39 (c) Facts found by the commissioner that are related to the allegations of the complaint; and

40 (d) A statement that the investigation of the complaint has disclosed substantial evidence sup-
41 porting the allegations of the complaint.

42 **SECTION 5.** ORS 659A.845 is amended to read:

43 659A.845. (1) If the Commissioner of the Bureau of Labor and Industries issues a finding of
44 substantial evidence under ORS 659A.835 and the matter cannot be settled through conference,
45 conciliation and persuasion, or if the commissioner determines that the interest of justice requires

1 that a hearing be held without first seeking settlement, the commissioner shall prepare formal
 2 charges. Formal charges must contain all information required for a notice under ORS 183.415 and
 3 must specify the allegations of the complaint to which the respondent will be required to make re-
 4 sponse. Formal charges shall also set the time and place for hearing the formal charges.

5 **(2)(a)** The commissioner shall serve the formal charges on all respondents found to have en-
 6 gaged in the unlawful practice.

7 **(b) If the formal charges allege a violation of ORS 659A.145 or 659A.421, the commissioner**
 8 **shall serve on the named respondents and complainants the formal charges and a notice of**
 9 **the right of the respondents and complainants under ORS 659A.870 to opt for a court trial**
 10 **instead of a hearing under ORS 659A.850.**

11 **SECTION 6.** ORS 659A.850 is amended to read:

12 659A.850. (1) All proceedings before the Commissioner of the Bureau of Labor and Industries
 13 under this section shall be conducted as contested case proceedings under the provisions of ORS
 14 chapter 183. The commissioner may appoint a special tribunal or hearing officer to hear the matter.
 15 The commissioner may affirm, reverse, modify or supplement the determinations, conclusions or or-
 16 der of any special tribunal or hearing officer appointed under this subsection. The scheduling of a
 17 hearing under this section does not affect the ability of the commissioner and any respondent to
 18 thereafter settle the matters alleged in the complaint through conference, conciliation and persua-
 19 sion.

20 (2) After considering all the evidence, the commissioner shall cause to be issued findings of facts
 21 and conclusions of law.

22 (3) The commissioner shall issue an order dismissing the formal charges against any respondent
 23 not found to have engaged in any unlawful practice alleged in the complaint.

24 (4) After a hearing under this section, the commissioner shall issue an appropriate cease and
 25 desist order against any respondent found to have engaged in any unlawful practice alleged in the
 26 complaint. The order must be signed by the commissioner and must take into account the need to
 27 supervise compliance with the terms of order. The order may require that the respondent:

28 (a) Perform an act or series of acts designated in the order that are reasonably calculated to
 29 carry out the purposes of this chapter, to eliminate the effects of the unlawful practice that the re-
 30 spondent is found to have engaged in, and to protect the rights of the complainant and other persons
 31 similarly situated;

32 (b) Submit reports to the commissioner on the manner of compliance with other terms and con-
 33 ditions specified in the commissioner's order, and take other action as may be required to ensure
 34 compliance with the commissioner's order; and

35 (c) Refrain from any action specified in the order that would jeopardize the rights of the
 36 complainant or other persons similarly situated, or that would otherwise frustrate the purposes of
 37 this chapter.

38 **(5)(a) For the purpose of determining whether a respondent engaged in an unlawful**
 39 **practice under ORS 659A.145 (3) or 659A.421 (5), the commissioner shall consider:**

40 **(A) The significance of the adverse impact of the facially neutral housing policy on the**
 41 **disabled person or a person described in ORS 659A.421 (5);**

42 **(B) The importance and necessity of any business purpose underlying the facially neutral**
 43 **housing policy; and**

44 **(C) The availability of less discriminatory alternatives in achieving any business purpose**
 45 **that underlies the facially neutral housing policy.**

1 **(b) If the commissioner finds that a respondent has engaged in an unlawful practice un-**
 2 **der ORS 659A.145 (3) or 659A.421 (5) and awards relief, including a civil penalty allowed under**
 3 **ORS 659A.855, the commissioner must base the relief on the factors described in paragraph**
 4 **(a) of this subsection.**

5 [(5)] (6) A cease and desist order issued under subsection (4) of this section may be recorded in
 6 the County Clerk Lien Record in the manner provided by ORS 205.125 and enforced in the manner
 7 provided by ORS 205.126. In addition to enforcement under ORS 205.126, the order may be enforced
 8 by writ of mandamus or a civil action to compel specific performance of the order.

9 **SECTION 7.** ORS 659A.855 is amended to read:

10 659A.855. [(1)] (1)(a) If the Commissioner of the Bureau of Labor and Industries files a complaint
 11 under ORS 659A.825 alleging an unlawful practice other than an unlawful employment practice, and
 12 the commissioner finds that the respondent engaged in the unlawful practice, the commissioner may,
 13 in addition to other steps taken to eliminate the unlawful practice, impose a civil penalty upon each
 14 respondent found to have committed the unlawful practice.

15 [(2)] (b) Civil penalties under this [section] **subsection** may not exceed \$1,000 for each violation.
 16 [*Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.*]

17 **(2)(a) If a complaint is filed under ORS 659A.820 or 659A.825 alleging an unlawful practice**
 18 **under ORS 659A.145 or 659A.421 or discrimination under federal housing law and the com-**
 19 **missioner finds that a respondent has engaged in an unlawful practice under ORS 659A.145**
 20 **or 659A.421 or discrimination under federal housing law, the commissioner may assess**
 21 **against the respondent, in addition to any other relief available, a civil penalty:**

22 **(A) In an amount not exceeding \$10,000;**

23 **(B) Except as provided in paragraph (b) of this subsection, in an amount not exceeding**
 24 **\$25,000 if the respondent has been adjudged to have engaged in one other discriminatory**
 25 **housing practice during the five-year period ending on the date of the filing of the specific**
 26 **charges leading to the hearing; or**

27 **(C) Except as provided in paragraph (b) of this subsection, in an amount not exceeding**
 28 **\$50,000 if the respondent has been adjudged to have engaged in two or more discriminatory**
 29 **housing practices during the seven-year period ending on the date of the filing of the specific**
 30 **charges leading to the hearing.**

31 **(b) If acts constituting the discriminatory housing practice that is the object of the**
 32 **hearing were committed by the same individual who has been previously adjudged to have**
 33 **committed acts constituting a discriminatory housing practice, the civil penalties listed in**
 34 **paragraph (a)(B) and (C) of this subsection may be imposed regardless of the period of time**
 35 **between the previous and subsequent discriminatory housing practices.**

36 **(3) Civil penalties under this section shall be imposed in the manner provided by ORS**
 37 **183.745.**

38 [(3)] (4) All sums collected as civil penalties under this section must first be applied toward re-
 39 imbursement of the costs incurred in determining the violations, conducting hearings and assessing
 40 and collecting the penalty. The remainder, if any, shall be paid over by the commissioner to the
 41 Department of State Lands for the benefit of the Common School Fund. The department shall issue
 42 a receipt for the money to the commissioner.

43 **SECTION 8.** ORS 659A.870 is amended to read:

44 659A.870. (1) Except as provided in this section, the filing of a civil action by a person in circuit
 45 court pursuant to ORS 659A.885, or in federal district court under applicable federal law, waives the

1 right of the person to file a complaint with the Commissioner of the Bureau of Labor and Industries
2 under ORS 659A.820 with respect to the matters alleged in the civil action.

3 (2) The filing of a complaint under ORS 659A.820 is not a condition precedent to the filing of
4 any civil action.

5 (3) If a person files a civil action claiming a violation of ORS 659A.145 or 659A.421 or of an
6 equivalent federal law, the filing does not constitute an election of remedies or a waiver of the right
7 of the person to file a complaint with the commissioner under ORS 659A.820, but the commissioner
8 shall dismiss the complaint upon the commencement of a trial in the civil action.

9 [(4)] (4)(a) The filing of a complaint under ORS 659A.820 by a person claiming a violation of
10 ORS 659A.145 or 659A.421 or of an equivalent federal law does not constitute an election of reme-
11 dies or a waiver of the right of the person to file a civil action with respect to the same matters,
12 but a civil action may not be filed after a hearing officer has commenced a hearing on the record
13 under this chapter with respect to the allegations of the complaint.

14 (b) **A respondent or complainant named in a complaint filed under ORS 659A.820 or**
15 **659A.825 claiming a violation of ORS 659A.145 or 659A.421 may elect to have the matter heard**
16 **in circuit court. The election must be made in writing and received by the commissioner**
17 **within 20 days after service of formal charges under ORS 659A.845. If the respondent or the**
18 **complainant makes the election, the commissioner shall pursue the matter in court on behalf**
19 **of the complainant at no cost to the complainant.**

20 (c) **If the Attorney General or the commissioner files a complaint under ORS 659A.825,**
21 **the Attorney General or the commissioner may elect to have the matter heard in circuit**
22 **court.**

23 (d) **If the respondent, the complainant, the Attorney General and the commissioner do**
24 **not elect to have the matter heard in circuit court, the commissioner may conduct a hearing**
25 **on the formal charges under ORS 659A.850.**

26 (5) A person who has filed a complaint under ORS 659A.820 need not receive a 90-day notice
27 under ORS 659A.880 before commencing a civil action that is based on the same matters alleged in
28 the complaint filed with the commissioner.

29 (6) This section [*shall not be construed to*] **does not** limit or alter in any way the authority or
30 power of the commissioner, or [*to*] limit or alter in any way any of the rights of an individual
31 complainant, until and unless the complainant commences a civil action.

32 **SECTION 9.** ORS 659A.885 is amended to read:

33 659A.885. (1) Any individual claiming to be aggrieved by an unlawful practice specified in sub-
34 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
35 the court may order injunctive relief and [*such*] **any** other equitable relief [*as*] **that** may be appro-
36 priate, including but not limited to reinstatement or the hiring of employees with or without back
37 pay. A court may order back pay in an action under this subsection only for the two-year period
38 immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the
39 Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced,
40 the two-year period immediately preceding the filing of the action. In any action under this sub-
41 section, the court may allow the prevailing party costs and reasonable attorney fees at trial and on
42 appeal. Except as provided in subsection (3) of this section:

43 (a) The judge shall determine the facts in an action under this subsection; and

44 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
45 review the judgment pursuant to the standard established by ORS 19.415 (3).

1 (2) An action may be brought under subsection (1) of this section for the following unlawful
 2 practices: ORS 25.337, 25.424, 399.235, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069,
 3 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233,
 4 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.318 and 659A.421 (1), [or] (3) or
 5 (5).

6 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
 7 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to 659A.262,
 8 659A.318 or 659A.421 (1), [or] (3) or (5):

9 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
 10 compensatory damages or \$200, whichever is greater, and punitive damages;

11 (b) At the request of any party, the action shall be tried to a jury;

12 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 13 ment pursuant to the standard established by ORS 19.415 (1); and

14 (d) Any attorney fee agreement shall be subject to approval by the court.

15 (4) In any action under subsection (1) of this section alleging a violation of ORS 659A.203 or
 16 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this sec-
 17 tion, compensatory damages or \$250, whichever is greater.

18 (5) Any individual against whom any distinction, discrimination or restriction on account of
 19 race, religion, sex, marital status, color, national origin or age, if the individual is 18 years of age
 20 or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any
 21 person acting on behalf of [such] **the** place or by any person aiding or abetting [such] **the** place or
 22 person in violation of ORS 659A.406 may bring an action against the operator or manager of [such]
 23 **the** place, the employee or person acting on behalf of [such] **the** place or the aider or abettor of
 24 [such] **the** place or person. Notwithstanding subsection (1) of this section, in an action under this
 25 subsection:

26 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
 27 compensatory and punitive damages;

28 (b) The operator or manager of the place of public accommodation, the employee or person
 29 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
 30 damages awarded in the action;

31 (c) At the request of any party, the action shall be tried to a jury;

32 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

33 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 34 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 35 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 36 and

37 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
 38 judgment pursuant to the standard established by ORS 19.415 (1).

39 **(6) In any action under subsection (1) of this section alleging a violation of ORS 659A.145**
 40 **or 659A.421 (1), (3) or (5) or alleging discrimination under federal housing law, the court may**
 41 **assess against the respondent, in addition to the relief authorized under subsections (1) and**
 42 **(3) of this section, a civil penalty:**

43 **(a) In an amount not exceeding \$50,000 for a first violation; and**

44 **(b) In an amount not exceeding \$100,000 for any subsequent violation.**

45 **(7) Notwithstanding subsections (3) and (6) of this section, in any action under subsection**

1 (1) of this section alleging a violation of ORS 659A.145 (3) or 659A.421 (5), the court shall de-
 2 termine if a violation occurred, and award any relief under subsection (1), (3) or (6) of this
 3 section, based on:

4 (a) The significance of the adverse impact of the facially neutral housing policy on the
 5 disabled person or a person described in ORS 659A.421 (5);

6 (b) The importance and necessity of any business purpose underlying the facially neutral
 7 housing policy; and

8 (c) The availability of less discriminatory alternatives in achieving any business purpose
 9 that underlies the facially neutral housing policy.

10 (8) In any action under subsection (1) of this section alleging a violation of ORS 659A.145
 11 or 659A.421 (1), (3) or (5) or alleging discrimination under federal housing law, when the
 12 commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall
 13 award reasonable attorney fees to the commissioner if the commissioner prevails in the
 14 action. The court may award reasonable attorney fees and expert witness fees incurred by
 15 a defendant that prevails in the action if the court determines that the commissioner had
 16 no objectively reasonable basis for asserting the claim or for appealing an adverse decision
 17 of the trial court.

18 **SECTION 10.** ORS 90.390 is amended to read:

19 90.390. (1) A landlord may not discriminate against a tenant in violation of local, state or federal
 20 law, including ORS 346.630, 346.660, 346.690, 659A.145 and 659A.421.

21 (2) If the tenant can prove that the landlord [*has in fact acted in violation of*] **violated** subsection
 22 (1) of this section, the tenant has a defense in any discriminatory action brought by the landlord
 23 against the tenant for possession, unless the tenant is in default in rent.

24 (3) A tenant may prove a landlord’s discrimination in violation of ORS 659A.145 or 659A.421 by
 25 demonstrating that a facially neutral housing policy has a disparate adverse impact on [*members of*
 26 *a protected class as described in ORS 659A.424*] **persons based on the characteristics described**
 27 **in ORS 659A.145 or 659A.421.**

28 (4) A landlord may not discriminate against an applicant because the applicant was [*in fact*] a
 29 defendant in an action for possession pursuant to ORS 105.105 to 105.168 that prior to the applica-
 30 tion was dismissed in favor of the defendant or that resulted in final judgment for the defendant. If
 31 the landlord knowingly acts in violation of this subsection, the applicant may recover actual dam-
 32 ages or \$200, whichever is greater.

33 **SECTION 11.** ORS 659A.424 is repealed.

34 **SECTION 12.** The amendments to statutes by sections 1 to 10 of this 2005 Act apply to
 35 conduct occurring on or after the effective date of this 2005 Act.

36
 37 **SINGLE-UNIT HOUSING**
 38 **PROPERTY TAX EXEMPTION**
 39

40 **SECTION 13.** ORS 458.005 is amended to read:

41 458.005. As used in ORS 458.005 and 458.015 to 458.065, unless the context requires otherwise:

42 (1) “Distressed area” means a primarily residential area of a city designated by a city under
 43 ORS 458.015 which, by reason of deterioration, inadequate or improper facilities, the existence of
 44 unsafe or abandoned structures, including but not limited to a significant number of vacant or
 45 abandoned single or multifamily residential units, or any combination of these or similar factors, is

1 detrimental to the safety, health and welfare of the community. *[Each city that adopts, by resolution*
 2 *or ordinance, ORS 308.450 to 308.481, shall adopt rules specifying the process for determining the*
 3 *boundaries of a distressed area and for distressed area boundary changes. At no time shall the cumu-*
 4 *lative land area within the boundaries of distressed areas within a city, determined for purposes of*
 5 *ORS 458.005 and 458.015 to 458.065, exceed 20 percent of the total land area of the city.]*

6 (2) “Governing body” means the city legislative body having jurisdiction over the property for
 7 which an exemption may be applied for under ORS 458.005 and 458.015 to 458.065.

8 (3) **“Qualified dwelling unit” means a dwelling unit that, upon completion, has a market**
 9 **value, including land and improvements, of no more than 120 percent, or a lesser percentage**
 10 **as adopted by the governing body by resolution, of the median sales price of dwelling units**
 11 **located within the city.**

12 [(3)] (4) “Single-unit housing [unit]” means a newly constructed structure *[having only one*
 13 *dwelling unit]* **that has one or more dwelling units and** that:

14 (a) Is, or will be, at the time that construction is completed, in conformance with all local plans
 15 and planning regulations, including special or district-wide plans developed and adopted pursuant
 16 to ORS chapters 195, 196, 197 and 227.

17 (b) Is constructed on or after January 1, 1990, and is completed within two years after applica-
 18 tion for exemption is approved under ORS 458.040 *[or before July 1, 2003, whichever is earlier]*.

19 (c) Upon completion, is designed for *[habitation]* **each dwelling unit within the structure to**
 20 **be purchased by and lived in** by one person or one family.

21 *[(d) Upon completion, has a market value (land and improvements) of no more than 120 percent,*
 22 *or a lesser percent as adopted by the governing body by resolution, of the median sales price of single*
 23 *family homes located within the city. Prior to January 1 of each year, the governing body shall adopt*
 24 *by resolution the median sales price to be used for purposes of this paragraph during the next calendar*
 25 *year. In determining median sales price the governing body, assisted by the county assessor, shall use*
 26 *the sales data collected under ORS 309.200 in the county in which the greater portion of the taxable*
 27 *assessed value of the city is located for the period ending the prior November 30 relative to single*
 28 *family homes. In addition, the governing body may use data made available by the real estate and*
 29 *construction or other appropriate industry.]*

30 (d) **Upon completion, has one or more qualified dwelling units within the single-unit**
 31 **housing.**

32 [(e)(A)] (e) Is not a **floating home, as defined in ORS 830.700, or a** manufactured structure,
 33 as defined in ORS 801.333, *[or a floating home, as defined in ORS 830.700]* **other than a manufac-**
 34 **tured home described in ORS 197.307 (5)(a) to (f).**

35 [(B) Notwithstanding subparagraph (A) of this paragraph, a “single-unit housing unit” includes a
 36 “manufactured home” as described under ORS 197.307 (5)(a) to (f).]

37 [(4)] (5) “Structure” does not include the land, nor any site development to the land, as both are
 38 defined under ORS 307.010.

39 **SECTION 14.** ORS 458.005, as amended by section 76a, chapter 655, Oregon Laws 2003, is
 40 amended to read:

41 458.005. As used in ORS 458.005 and 458.015 to 458.065, unless the context requires otherwise:

42 (1) “Distressed area” means a primarily residential area of a city designated by a city under
 43 ORS 458.015 which, by reason of deterioration, inadequate or improper facilities, the existence of
 44 unsafe or abandoned structures, including but not limited to a significant number of vacant or
 45 abandoned single or multifamily residential units, or any combination of these or similar factors, is

1 detrimental to the safety, health and welfare of the community. *[Each city that adopts, by resolution*
 2 *or ordinance, ORS 308.450 to 308.481, shall adopt rules specifying the process for determining the*
 3 *boundaries of a distressed area and for distressed area boundary changes. At no time shall the cumu-*
 4 *lative land area within the boundaries of distressed areas within a city, determined for purposes of*
 5 *ORS 458.005 and 458.015 to 458.065, exceed 20 percent of the total land area of the city.]*

6 (2) “Governing body” means the city legislative body having jurisdiction over the property for
 7 which an exemption may be applied for under ORS 458.005 and 458.015 to 458.065.

8 (3) **“Qualified dwelling unit” means a dwelling unit that, upon completion, has a market**
 9 **value, including land and improvements, of no more than 120 percent, or a lesser percentage**
 10 **as adopted by the governing body by resolution, of the median sales price of dwelling units**
 11 **located within the city.**

12 [(3)] (4) “Single-unit housing [unit]” means a newly constructed structure *[having only one*
 13 *dwelling unit]* **that has one or more dwelling units and** that:

14 (a) Is, or will be, at the time that construction is completed, in conformance with all local plans
 15 and planning regulations, including special or district-wide plans developed and adopted pursuant
 16 to ORS chapters 195, 196, 197 and 227.

17 (b) Is constructed on or after January 1, 1990, and is completed within two years after applica-
 18 tion for exemption is approved under ORS 458.040 *[or before July 1, 2003, whichever is earlier]*.

19 (c) Upon completion, is designed for *[habitation]* **each dwelling unit within the structure to**
 20 **be purchased by and lived in** by one person or one family.

21 *[(d) Upon completion, has a market value (land and improvements) of no more than 120 percent,*
 22 *or a lesser percent as adopted by the governing body by resolution, of the median sales price of single*
 23 *family homes located within the city. Prior to January 1 of each year, the governing body shall adopt*
 24 *by resolution the median sales price to be used for purposes of this paragraph during the next calendar*
 25 *year. In determining median sales price the governing body, assisted by the county assessor, shall use*
 26 *the sales data collected under ORS 309.200 in the county in which the greater portion of the taxable*
 27 *assessed value of the city is located for the period ending the prior November 30 relative to single*
 28 *family homes. In addition, the governing body may use data made available by the real estate and*
 29 *construction or other appropriate industry.]*

30 (d) **Upon completion, has one or more qualified dwelling units within the single-unit**
 31 **housing.**

32 [(e)(A)] (e) Is not a **floating home, as defined in ORS 830.700, or a** manufactured structure,
 33 as defined in ORS 446.561, *[or a floating home, as defined in ORS 830.700]* **other than a manufac-**
 34 **tured home described in ORS 197.307 (5)(a) to (f).**

35 *[(B) Notwithstanding subparagraph (A) of this paragraph, a “single-unit housing unit” includes a*
 36 *“manufactured home” as described under ORS 197.307 (5)(a) to (f).]*

37 [(4)] (5) “Structure” does not include the land, nor any site development to the land, as both are
 38 defined under ORS 307.010.

39 **SECTION 15.** ORS 458.010 is amended to read:

40 458.010. (1) The Legislative Assembly finds it to be in the public interest to stimulate the con-
 41 struction of new *[single family residences]* **single-unit housing** in distressed urban areas in this
 42 state in order to improve in those areas the general life quality, to promote residential infill devel-
 43 opment on vacant or underutilized lots, to encourage homeownership and to reverse declining
 44 property values.

45 (2) The Legislative Assembly further finds and declares that the cities of this state *[be]* **are** able

1 to establish and design programs to stimulate the construction of new *[single family residences]*
 2 **single-unit housing** in distressed urban areas by means of a limited property tax exemption, as
 3 provided under ORS 458.005 and 458.015 to 458.065.

4 **SECTION 16.** ORS 458.015 is amended to read:

5 458.015. *[(1)]* **(1)(a)** ORS 458.005 and 458.015 to 458.065 apply to single-unit housing *[units]* lo-
 6 cated within the jurisdiction of a governing body *[which]* **that** adopts, by resolution or ordinance,
 7 ORS 458.005 and 458.015 to 458.065. Except as provided in subsection (2) of this section, the ex-
 8 emption provided by ORS 458.005 and 458.015 to 458.065 applies only to the tax levy of a governing
 9 body *[which]* **that** adopts ORS 458.005 and 458.015 to 458.065.

10 **(b) Each governing body that adopts, by resolution or ordinance, ORS 458.005 and 458.015**
 11 **to 458.065 shall adopt rules specifying the process for determining the boundaries of a dis-**
 12 **tressed area and for distressed area boundary changes. The cumulative land area within the**
 13 **boundaries of distressed areas within a city, determined for purposes of ORS 458.005 and**
 14 **458.015 to 458.065, may not exceed 20 percent of the total land area of the city.**

15 (2) The tax exemption provided under ORS 458.005 and 458.015 to 458.065 *[shall apply]* **applies**
 16 to the tax levy of all taxing units when, upon request of the city that has adopted ORS 458.005 and
 17 458.015 to 458.065, the rates of taxation of taxing units *[whose governing bodies]* **that** agree by re-
 18 solution to the policy of providing tax exemptions for single-unit housing *[units]* as described in ORS
 19 458.005 and 458.015 to 458.065, when combined with the rate of taxation of the city, equal 51 percent
 20 or more of the total combined rate of taxation levied on the property *[which]* **that** is tax exempt
 21 under ORS 458.005 and 458.015 to 458.065.

22 (3) The city shall designate one or more distressed areas, located within the territorial bounda-
 23 ries of the city, within which the city proposes to allow exemptions under ORS 458.005 and 458.015
 24 to 458.065.

25 (4) The city shall adopt standards and guidelines to be utilized in considering applications and
 26 making the determinations required under ORS 458.005 and 458.015 to 458.065, including but not
 27 limited to:

28 (a) Standards and guidelines for designating a distressed area, including but not limited to the
 29 probability of revitalization in the area without the assistance of the property tax exemption pro-
 30 vided under ORS 458.005 and 458.015 to 458.065.

31 (b) Design elements for construction of the single-unit housing proposed to be exempt.

32 (c) Extensions of public benefits from the construction of the single-unit housing beyond the
 33 period of exemption.

34 **SECTION 17.** **Prior to January 1 of each assessment year, the governing body of a city**
 35 **that adopts ORS 458.005 and 458.015 to 458.065 shall adopt by resolution the median sales**
 36 **price to be used for purposes of determining if dwelling units are qualified under ORS 458.005**
 37 **and 458.015 to 458.065. In determining the median sales price, the governing body, assisted**
 38 **by the county assessor, shall use the sales data collected under ORS 309.200 in the county**
 39 **in which the greater portion of the taxable assessed value of single-unit housing in the city**
 40 **is located, as of the period ending the prior November 30.**

41 **SECTION 18.** ORS 458.020 is amended to read:

42 458.020. **Each qualified dwelling unit of [A] single-unit housing [unit which] that** qualifies for
 43 exemption under ORS 458.005 and 458.015 to 458.065 shall be exempt from ad valorem taxation for
 44 no more than 10 successive **tax** years beginning *[January 1 of the assessment year in which the ap-*
 45 *plication is approved]* **July 1 of the first tax year following approval of the application** under

1 ORS 458.040, as determined under rules adopted by the Department of Revenue. The exemption
 2 provided by this section shall be in addition to any other exemption provided by law for the prop-
 3 erty. However, the amount of assessed value exempted under this section [*shall*] **may** not exceed the
 4 real market value of the structure determined as of the date that the property is inspected for pur-
 5 poses of making a determination under ORS 458.040.

6 **SECTION 19.** ORS 458.025 is amended to read:

7 458.025. (1) Any owner desiring an exemption under ORS 458.005 and 458.015 to 458.065 shall
 8 first apply to the city on forms supplied by the city.

9 (2) The application shall describe the property for which an exemption is requested, set forth
 10 the grounds for the exemption and be verified by oath or affirmation of the applicant.

11 [(3) *Application shall be made on or before September 1 of the calendar year immediately preceding*
 12 *the first year for which exemption is requested, and shall be accompanied by the application fee re-*
 13 *quired under ORS 458.040.*]

14 [(4)] (3) The city may permit the applicant to revise an application made under this section prior
 15 to final action by the city.

16 **SECTION 20.** ORS 458.035 is amended to read:

17 458.035. The city may approve an application made under ORS 458.025 if it finds that:

18 (1) The proposed construction will be located in a distressed area.

19 (2) The proposed construction will [*result in a structure that meets the definition of*] **constitute**
 20 single-unit housing [*unit*].

21 (3) The owner has agreed to include [*in the construction as a part of the single unit*] the design
 22 elements [*developed*] **adopted** under ORS 458.015 (4) **in the construction.**

23 (4) The construction will result in public benefits beyond the period of exemption.

24 **SECTION 21.** ORS 458.040 is amended to read:

25 458.040. (1) The city shall approve or deny an application filed under ORS 458.025 within 180
 26 days after receipt of the application. An application not acted upon within 180 days shall be deemed
 27 approved.

28 (2) Final action upon an application by the city shall be in the form of an ordinance or resol-
 29 ution that shall contain the owner's name and address, a description of the [*subject single-unit*
 30 *housing unit,*] **structure that is the subject of the application that includes** either the legal de-
 31 scription of the property or the assessor's property account number and the specific conditions upon
 32 which the approval of the application is based.

33 (3) On or before April 1 following approval, the city shall file with the county assessor and send
 34 to the owner at the last-known address of the owner a copy of the ordinance or resolution approving
 35 [*or disapproving*] the application. The copy shall contain or be accompanied by a notice explaining
 36 the grounds for possible termination of the exemption prior to the end of the exemption period or
 37 thereafter, and the effects of termination. In addition, the city shall file with the county assessor
 38 on or before April 1 a document listing the same information otherwise required to be in an ordi-
 39 nance or resolution under subsection (2) of this section, as to each application deemed approved
 40 under subsection (1) of this section.

41 (4) If the application is denied, the city shall state in writing the reasons for denial and send
 42 notice of denial to the applicant at the last-known address of the applicant within 10 days after the
 43 denial. The notice shall inform the applicant of the right to appeal under ORS 458.060.

44 (5) The city, after consultation with the county assessor, shall establish an application fee in
 45 an amount sufficient to cover the cost to be incurred by the city and the assessor in administering

1 ORS 458.005 and 458.015 to 458.065. The application fee shall be paid to the city at the time the
 2 application for exemption is filed. If the application is approved, the city shall pay the application
 3 fee to the county assessor for deposit in the county general fund, after first deducting that portion
 4 of the fee attributable to its own administrative costs in processing the application. If the applica-
 5 tion is denied, the city shall retain that portion of the application fee attributable to its own ad-
 6 ministrative costs and shall refund the balance to the applicant.

7 **SECTION 22. Notwithstanding ORS 458.025 (2001 Edition or 2003 Edition) and 458.040, an**
 8 **application for exemption that seeks the tax year beginning July 1, 2005, as the first year of**
 9 **the exemption may be approved or denied by the city within 30 days following the effective**
 10 **date of this 2005 Act.**

11 **SECTION 23.** ORS 458.045 is amended to read:

12 458.045. (1) Except as provided in ORS 458.050, if, after an application has been approved under
 13 ORS 458.040, the city finds that construction of [a] single-unit housing [unit] was not completed
 14 within two years after the date the application was approved [or on or before January 1, 2003,
 15 whichever is earlier,] or that any provision of ORS 458.005 and 458.015 to 458.065 is not being com-
 16 plied with, or any provision required by the city pursuant to ORS 458.005 and 458.015 [and] to
 17 458.065 is not being complied with, the city shall give notice to the owner, mailed to the owner's
 18 last-known address, of the proposed termination of the exemption. The notice shall state the reasons
 19 for the proposed termination and shall require the owner to appear at a specified time, not less than
 20 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

21 (2) If the owner fails to show cause why the exemption should not be terminated, the city shall
 22 adopt an ordinance or resolution stating its findings **and** terminating the exemption. A copy of the
 23 ordinance or resolution shall be filed with the county assessor and a copy sent to the owner at the
 24 owner's last-known address within 10 days after its adoption.

25 **SECTION 24.** ORS 458.050 is amended to read:

26 458.050. (1) If, after application has been approved under ORS 458.040, [a declaration defined in
 27 ORS 100.005 with respect to the property is presented to the county assessor or tax collector for ap-
 28 proval under ORS 100.110, or if] the county assessor discovers that the single-unit housing [unit] or
 29 a portion of the single-unit housing [unit] is changed to a use that is other than single-unit housing:

30 (a) The exemption granted the single-unit housing or portion under ORS 458.005 and 458.015 to
 31 458.065 shall terminate immediately, without right of notice or appeal;

32 (b) The property or portion shall be assessed and taxed as other property similarly situated is
 33 assessed and taxed; and

34 (c) Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the
 35 tax year next following the [presentation or] discovery, to be collected and distributed in the same
 36 manner as other real property tax, an amount equal to the difference between the amount of tax due
 37 on the property and the amount of the tax that would have been due on the property had it not been
 38 exempt under ORS 458.005 and 458.015 to 458.065 for each of the years, not to exceed the last 10
 39 years, during which the property was exempt from taxation under ORS 458.005 and 458.015 to
 40 458.065.

41 (2) If, at the time of [presentation or] discovery, the property is no longer exempt, additional
 42 taxes shall be imposed as provided in this section, but the number of years that would otherwise
 43 be used to compute the additional taxes shall be reduced by one year for each year that has elapsed
 44 since the year the property was last granted exemption.

45 (3) The assessment and tax rolls shall show potential additional tax liability for each property

1 granted exemption under ORS 458.005 and 458.015 to 458.065.

2 (4) Additional taxes collected under this section shall be deemed to have been imposed in the
3 year to which the additional taxes relate.

4 **SECTION 25.** ORS 458.060 is amended to read:

5 458.060. (1) Review of a denial of an application under ORS 458.040 shall be as provided by ORS
6 34.010 to 34.100.

7 (2) Upon termination of an exemption, the county officials having possession of the assessment
8 and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.216
9 to 311.232 to provide for the assessment and taxation of any property for which exemption was ter-
10 minated by the city or by a court, in accordance with the finding of the city or the court as to the
11 year in which the exemption is first to be terminated. The county assessor shall make such valu-
12 ation of the property as shall be necessary to permit such correction of the rolls. The owner may
13 appeal any such valuation in the same manner as provided for appeals under ORS 311.216 to 311.232.

14 (3) **Unless the exemption is terminated pursuant to ORS 458.050, [where] if there has been**
15 **a failure to comply with ORS 458.045, the property shall become taxable beginning [January 1 of the**
16 **assessment] July 1 of the tax year in which the noncompliance first occurred. Any additional taxes**
17 **becoming due shall be payable without interest if paid in the period prior to the 16th day of the**
18 **month next following the month of correction. If not paid within such period, the additional taxes**
19 **shall be delinquent on the date they would normally have become delinquent if timely extended on**
20 **the roll or rolls in the year or years for which the correction was made.**

21 **SECTION 26.** ORS 458.065 is amended to read:

22 458.065. Notwithstanding any provision of ORS 458.005 and 458.015 to 458.065:

23 (1) If the city finds that construction of the single-unit housing [*unit*] was not completed by
24 [*January 1, 2003,*] **a date that is 12 months after the date on which applications may no longer**
25 **be approved under ORS 458.040, and further finds that the failure to complete construction**
26 **was due to circumstances beyond the control of the owner, and that the owner had been acting and**
27 **could reasonably be expected to act in good faith and with due diligence, the city may extend the**
28 **deadline for completion of construction for a period not to exceed an additional 12 consecutive**
29 **months.**

30 (2) If property granted exemption under ORS 458.005 and 458.015 to 458.065 is destroyed by fire
31 or act of God, or is otherwise no longer capable of occupancy due to circumstances beyond the
32 control of the owner, the exemption shall cease but no additional taxes or penalty shall be imposed
33 under ORS 458.005 and 458.015 to 458.065 upon the property.

34 **SECTION 27. The amendments to ORS 458.005, 458.010, 458.015, 458.020, 458.025, 458.035,**
35 **458.040, 458.045, 458.050, 458.060 and 458.065 by sections 13 to 16, 18 to 21 and 23 to 26 of this**
36 **2005 Act apply to property tax years beginning on or after July 1, 2005.**

37 **SECTION 28. Applications for exemption under ORS 458.005 and 458.015 to 458.065 may**
38 **not be accepted on or after January 1, 2016.**

39 **SECTION 29. Sections 17, 22 and 28 of this 2005 Act and ORS 458.005 and 458.010 are added**
40 **to and made a part of ORS 458.015 to 458.065.**

41 **SECTION 30. ORS 458.015 to 458.065 are added to and made a part of ORS chapter 307.**

42
43 **MULTIPLE-UNIT HOUSING**
44 **PROPERTY TAX EXEMPTION**
45

SECTION 31. ORS 307.675 is amended to read:

307.675. (1) If, after application has been approved under ORS 307.600 to 307.691, [*a declaration defined in ORS 100.005 with respect to the property is presented to the county assessor or tax collector for approval under ORS 100.110, or if*] the county assessor discovers that the multiple-unit housing or a portion of the multiple-unit housing is changed to a use that is other than residential or housing, or if the exemption was granted for housing being or becoming subject to a low income housing assistance contract with an agency or subdivision of this state or the United States and the housing is not housing subject to a low income housing assistance contract as of a date the housing is required to be subject to a low income housing assistance contract in order to receive the exemption:

(a) The exemption granted the multiple-unit housing or portion under ORS 307.600 to 307.691 shall terminate immediately, without right of notice or appeal;

(b) The property or portion shall be assessed and taxed as other property similarly situated is assessed and taxed; and

(c)(A) Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the tax year next following the [*presentation or*] discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the amount of tax that would have been due on the property or portion had it not been exempt under ORS 307.600 to 307.691 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS 307.600 to 307.691.

(B) In the case of multiple-unit housing described in ORS 307.605 (5)(a), this paragraph applies only if the low income housing assistance contract to which the housing was or was to become subject was not entered into, breached or terminated prematurely.

(2) If, at the time of [*presentation or*] discovery, the property is no longer exempt, additional taxes shall be imposed as provided in this section, but the number of years that would otherwise be used to compute the additional taxes shall be reduced one year for each year that has elapsed since the year the property was last granted exemption beginning with the oldest year for which additional taxes are due.

(3) The assessment and tax rolls shall show “potential additional tax liability” for each property granted exemption under ORS 307.600 to 307.691.

(4) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.

SECTION 32. The amendments to ORS 307.675 by section 31 of this 2005 Act apply to property tax years beginning on or after July 1, 2005.

CRIME OF HOUSING INTIMIDATION

SECTION 33. ORS 161.005 is amended to read:

161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737, 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.160 to 163.208, 163.215 to 163.257, 163.275, 163.285, 163.305 to 163.467, 163.505 to 163.575, 163.665 to 163.696, 164.005, 164.015 to 164.135, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.877, 165.002 to 165.109, 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and 167.820[,] **and**

1 **section 34 of this 2005 Act** shall be known and may be cited as Oregon Criminal Code of 1971.

2 **SECTION 34. (1) A person commits the crime of housing intimidation if the person, for**
3 **a reason listed in subsection (2) of this section, intentionally:**

4 (a) **Tampers or interferes with property with the intent to cause substantial inconven-**
5 **ience to another person;**

6 (b) **Subjects another person to offensive physical contact; or**

7 (c) **Subjects another person to alarm by threatening to:**

8 (A) **Inflict serious physical injury upon or to commit a felony affecting the other person,**
9 **or a member of the other person's family; or**

10 (B) **Cause substantial damage to the property of the other person or of a member of the**
11 **other person's family.**

12 (2) **Subsection (1) of this section applies to a person who takes an action described in**
13 **subsection (1) of this section because:**

14 (a)(A) **Of the other person's race, color, religion, sex, national origin, marital status,**
15 **familial status, source of income or disability; and**

16 (B) **Because the other person is:**

17 (i) **Occupying a dwelling;**

18 (ii) **Participating in buying, selling, renting, financing or occupying a dwelling; or**

19 (iii) **Participating in a service or organization that is related to the business of selling**
20 **or renting dwellings;**

21 (b) **The other person is participating in any of the activities described in paragraph**
22 **(a)(B)(ii) or (iii) of this subsection in a way that does not discriminate on the basis of race,**
23 **color, religion, sex, national origin, marital status, familial status, source of income or dis-**
24 **ability; or**

25 (c) **The other person is aiding or encouraging other persons to participate in any of the**
26 **activities described in paragraph (a)(B)(ii) or (iii) of this subsection in a way that does not**
27 **discriminate on the basis of race, color, religion, sex, national origin, marital status, familial**
28 **status, source of income or disability.**

29 (3)(a) **Housing intimidation is a Class A misdemeanor.**

30 (b) **Notwithstanding paragraph (a) of this subsection, housing intimidation is a Class B**
31 **felony if:**

32 (A) **A person suffers physical injury as a result of the unlawful act; or**

33 (B) **The defendant used or threatened to use a dangerous weapon, explosives or fire while**
34 **committing the unlawful act.**

35
36 **CAPTIONS**

37
38 **SECTION 35. The unit captions used in this 2005 Act are provided only for the conven-**
39 **ience of the reader and do not become part of the statutory law of this state or express any**
40 **legislative intent in the enactment of this 2005 Act.**

41
42 **EFFECTIVE DATE**

43
44 **SECTION 36. This 2005 Act takes effect on the 91st day after the date on which the**
45 **regular session of the Seventy-third Legislative Assembly adjourns sine die.**

