OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
SECRETARY OF STATE

MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OHCS 45-2025
CHAPTER 813
OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

FILED
10/09/2025 9:20 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Updating rules to take into account recent statutory updates from HB2087.

EFFECTIVE DATE: 10/09/2025 THROUGH 04/06/2026

AGENCY APPROVED DATE: 10/08/2025

CONTACT: Glenn Muna
503-986-6796
glenn.muna@hcs.oregon.gov

725 Summer St. NE, Suite B.
Salem,OR 97301

Filed By:
Glenn Muna
Rules Coordinator

NEED FOR THE RULE(S):

Recent legislative updates to OAHTC statute necessitate updating rule language to match. We are also fixing typos and adding clarifying language.

JUSTIFICATION OF TEMPORARY FILING:

Due to the nature of the statutory updates and the large and outstanding need for stabilization funds for financially strapped affordable housing, we need the rules updates to go into effect immediately in order to protect affordability across the portfolio.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB2087 available on the State's Legislature's website

HOUSING IMPACT STATEMENT:

These rules do not affect the cost of development of a 6000 square foot parcel and the construction of a 1200 square foot detached single-family dwelling on that parcel.

RULES:
813-110-0005, 813-110-0010, 813-110-0011, 813-110-0013, 813-110-0015, 813-110-0020, 813-110-0025, 813-110-0026, 813-110-0030, 813-110-0037

AMEND: 813-110-0005

RULE TITLE: Purpose

RULE SUMMARY: Updating rules per statutory changes.

RULE TEXT:
OAR chapter 813, division 110 provides specific guidance pursuant to ORS 317.097 under which OHCS certifies affordable housing development projects sponsored by government entities, nonprofit corporations, and certain persons (“sponsoring entities” or “sponsors”) so as to enable a lending institution to claim Oregon affordable housing tax

credits (“OAHTC” or “tax credits”) against Oregon taxes with respect to permanent loans for the construction, acquisition, rehabilitation, or refinancing of such projects. The purpose of the tax credits is to encourage the creation or preservation of safe, sanitary, and affordable housing for lower-income Oregonians.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.555, ORS 317.991

STATUTES/OTHER IMPLEMENTED: ORS 317.097, ORS 317.991

AMEND: 813-110-0010

RULE TITLE: Definitions

RULE SUMMARY: Updating rules for statutory changes.

RULE TEXT:

Terms used throughout OAR chapter 813, division 110 may be defined in Oregon Revised Statute (ORS or statute), or in the Affordable Rental Housing Division Definitions (OAR 813-002-0010), or in the OHCS General Definitions (OAR 813-005-0005). Terms used within this division observe those definitions except as defined below. All words and terms used in OAR chapter 813, division 110 are as provided in statute, OAR 813-005-0005, or herein. As used in these rules:

(1) “Certification” means the written verification by OHCS to a lender that a project is a qualified project for which the lending institution may claim a OAHTC program tax credit under the provisions of the statute.

(2) “Firm commitment of financing” means an agreement by a lending institution or their intermediary to make a permanent loan to a specific borrower on a specific property and which will contain all the terms and conditions that the borrower must satisfy before said loan can be funded. Payment of a commitment charge by the borrower to the lending institution may be required as a condition precedent to issuance of such an agreement.

(3) "Limited Equity Cooperative (LEC)" is defined in ORS 317.097(1)(e)

(4) "Housing Payment Reduction" means the amount an eligible household's housing payment is reduced from housing payments charged at the market interest rate because of the OAHTC subsidy.

(5) “Oregon Affordable Housing Tax Credit Program Manual” or “OAHTC Manual” or “Manual” means the program manual for the Oregon Affordable Housing Tax Credit Program dated October 2025, as described in OAR 813-110-0011. The manual may be accessed online at OHCS’s website.

(6) “Project” means one or more units of affordable housing, that has been or will be acquired, constructed, developed, or rehabilitated, including refinanced housing, which will be rented to or owned by households whose incomes are less than 80 percent of area median income.

(7) “Rent Pass-through” or “pass-through” means the savings realized through the OAHTC loan rate discount that is used by the project owner to reduce tenant housing payments except in the case of projects falling under OAR 813-110-0013 (2, (3), (4), and (5) which do not have a pass-through requirement.

(8) “Rent reduction” means the amount rents are reduced from the rents charged at the market interest rate because of the OAHTC subsidy.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.555

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0011

RULE TITLE: Oregon Affordable Housing Tax Credit Manual

RULE SUMMARY: Updating rules for statutory changes.

RULE TEXT:

(1) Additional policies and instructions are outlined in the OAHTC Manual dated October 2025, incorporated into and adopted as part of this division of administrative rules by reference.

(2) The manual may be accessed online at OHCS's website.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0013

RULE TITLE: Loan Requirements

RULE SUMMARY: Updating rules per statutory changes.

RULE TEXT:

To be eligible for the OAHTC program tax credit, the permanent loan shall be:

(1) Made to a qualified borrower who;

(a) Uses the proceeds to finance construction, development, acquisition, or rehabilitation of housing; and,

(b) Provides a written declaration to OHCS that:

(A) Housing created by the loan is or will be occupied by households earning 80 percent or less of the area median income; and,

(B) The full amount of the savings, from the reduced interest rate provided by the lending institution, is or will be passed through to the qualified tenants in the form of a rent reduction or housing payment reduction, regardless of other subsidies provided directly to the housing project,

(C) In satisfying the pass-through requirement in OAR 813-110-0013(B), project sponsors may not assign pass-through to units whose qualified tenants are benefitting from project-based rent assistance,

(D) In satisfying the pass-through requirement in OAR 813-110-0013(B), may not assign more than the estimated prorated annual per unit pass-through to units whose qualified tenants benefit from a tenant-based voucher.

(E) Limited Equity Cooperative projects satisfy the pass-through requirement in OAR 813-110-0013(B) by passing through the full amount of the savings to households in the Limited Equity Cooperative in the form of reduced housing payments,

(F) The estimated annual average per-unit pass-through for a project is to be calculated by taking the total loan interest savings over the term of the OAHTC, divided by the term, then divided by twelve months, and then divided by the number of eligible affordable units occupied or held vacant for occupancy by qualified tenants, or

(2) Made to a qualified borrower who ensures;

(a) The proceeds will be used to finance construction, development, acquisition, or acquisition and rehabilitation of housing consisting of a manufactured dwelling park;

(b) The housing created by the loan is or will be occupied by a significant number of households, defined as 60% or more of all households at initial tenant qualification, earning 80 percent or less of the area median income; and,

(c) Provides by a written declaration to OHCS that the housing will continue to be operated as a manufactured dwelling park during the period for which the OAHTC program tax credit is allowed, or

(3) Made to a qualified borrower who;

(a) Uses the proceeds to finance acquisition, or acquisition and rehabilitation, of housing consisting of a preservation project; and,

(b) Provides a written declaration to OHCS that the housing preserved by the loan:

(A) Is or will be occupied by households earning 80 percent or less of the area median income; and

(B) Has a rent assistance contract with the United States Department of Housing and Urban Development (HUD) or the United States Department of Agriculture that will be maintained by the qualified borrower, or;

(4) Made to qualified borrower who;

(a) Uses the proceeds to finance preservation activities including construction, development, acquisition, or rehabilitation, of housing; and,

(b) Enters into a written declaration of restricted covenants with OHCS including the following minimum written requirements and any other that OHCS deems necessary:

(A) The housing is or will be occupied by households earning 80 percent or less of the area median income, and

(B) Is the subject of a rent assistance contract with the federal government or the state government or a local government that will be maintained by the qualified borrower, and

(C) That limits a tenant's rent burden to no more than 30 percent of their income, and

(D) Has the declaration recorded
(5) Made to a qualified borrower who;
(a) Uses the loan proceeds to finance preservation or rehabilitation of housing; and,
(b) Provides a written declaration to OHCS that the housing preserved or rehabilitated by the loan:
(A) Is or will be occupied by households earning 80 percent or less of the area median income; and
(B) Is determined by OHCS through an internal review process as laid out in the Property Stabilization Investments guidance available on OHCS's website to be in financial or physical distress that threatens its ongoing viability as an affordable housing resource.
(C) The OAHTC Program Manual referenced in OAR 813-110-0011 details specific parameters OHCS will use to make determinations of financial or physical risk.
(6) Made to a qualified mortgage loan fund that:
(a) Uses the proceeds to finance mortgages on land trust homes, and,
(b) Confirms that the homes will be affordable and occupied by first-time homebuyers that at the time of mortgage origination have a household income of 80 percent or less of area median income.
(7) For the project to qualify under OAR 813-110-0013 (3), (4), and (5), a minimum of 25 percent of the total units must be covered by qualifying rent assistance contracts.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515 - 456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0015

RULE TITLE: Application Requirements

RULE SUMMARY: Updating rule per statutory changes.

RULE TEXT:

(1) For the purpose of enabling a lending institution to obtain a reservation of OAHTC under ORS 317.097 for affordable rental housing projects, a sponsoring entity may apply to OHCS for certification of a qualified loan for the allocation of OAHTC consistent with OAR chapter 813 division 110 through the Oregon Centralized Application (ORCA) process.

(2) For the purpose of enabling a lending institution to obtain a reservation of OAHTC under ORS 317.097 for limited equity cooperative or manufactured dwelling park homeownership projects, a sponsoring entity may apply to OHCS for certification of a qualified loan for the allocation of OAHTC consistent with OAR chapter 813 division 110 through the OHCS Homeownership Development Notice of Funding Availability (NOFA) process.

(3) The application shall provide information satisfactory to OHCS including but not limited to:

(a) The name, address and contact information of the sponsoring entity;

(b) Proof as required by OHCS that the sponsoring entity is a qualified borrower;

(c) The relevant background of the qualified borrower and its management agent and their expertise with housing for low-income persons;

(d) A firm commitment of financing by the lending institution to the sponsoring entity for the project containing all of the terms and conditions that the sponsoring entity has to satisfy before the permanent loan will be funded and including an estimated comparable market interest rate for the proposed loan, the estimated reduced interest rate and the estimated amount of savings or a letter of intent for the purpose of a reservation under OAR 813-110-0030;

(e) The name, address, and contact person of the lending institution making the loan;

(f) A description of the project, including the type of housing or program involved, the number and type of housing units to be provided, the number of bedrooms, the address where the project is or will be located, and the federal, state, and local agencies or organizations involved in financing or managing the project;

(g) An agreement by the sponsoring entity to execute restrictive covenants satisfactory to OHCS, which will be recorded at the time of loan closing;

(h) A demonstration relating to occupancy of the units in the project, as required by subsection (4) of this section;

(i) A demonstration that the project meets the minimum requirements of any other OHCS program used by the project, as required by subsection (3) of this section;

(j) Any additional information or actions requested by OHCS; and

(k) A certification by the sponsoring entity that includes, at a minimum, the statement that all information in the application is true, complete, and accurately describes the project.

(4) The following provisions apply to the demonstration relating to occupancy of units that is required in subsection (3) of this section:

(a) A demonstration for a project (other than a manufactured dwelling park) that units constructed or rehabilitated with OAHTC will be occupied by households earning 80 percent or less of adjusted area median income at the time of initial occupancy.

(b) In the case of projects falling under OAR 813-110-0013(2), (3), and (4), pass-through is not required for a certification.

(c) For a project other than a project to which paragraph (b) of this subsection applies, the demonstration must show that at the time the project is initially rented or purchased, and thereafter for the term of the OAHTC, the sponsor will pass the benefits of the project's reduced loan interest rate to tenant or Limited Equity Cooperative (LEC) households whose earnings are 80 percent or less of area median income at the time of initial tenant or LEC qualification.

(d) A demonstration for a manufactured dwelling park must show that the project meets the occupancy requirements applicable to manufactured dwelling parks in ORS 317.097.

(5) A project that uses one or more other OHCS programs must demonstrate that the project meets or will meet the requirements of those other programs before application of the OAHTC subsidy rent reduction or housing payment reduction.
(6) Rental units covered by any project-based rent assistance are not eligible to be used to demonstrate pass-through savings for the OAHTC program.
(a) Projects where less than 25% of units are covered with project-based rent assistance may qualify to use OAHTC on the remaining units by demonstrating pass-through interest savings that result in appropriate rent reductions or housing payments to the pass-through eligible units.
(b) To the degree this can be achieved in conjunction with tenant-based vouchers not targeted for pass-through, it is encouraged to be targeted to units in the Project.
(7) OHCS at its own discretion may pair other OHCS resources with applications requesting the pass-through exemption described in OAR 813-110-0013(5).
(8) OHCS may require a non-refundable application charge and may assess such other charges as it deems reasonable to cover anticipated costs of processing the application, coordinating with other funding or project partners, negotiating, and recording required documents or additional administration. Certain other charges are identified later in these rules.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0020

RULE TITLE: Application Review

RULE SUMMARY: Updating rule per statutory changes.

RULE TEXT:

(1)(a) Applications for a reservation of OAHTC, or for an OAHTC certification of award if conditions are met as required under OAR 813-110-0020, are subject to OHCS review:

(b) Any resulting reservation or certification of award may include modifications to the application and may be rescinded if conditions are not satisfied.

(c) OHCS will not issue a reservation of OAHTC program tax credits to an applicant who has not identified a qualified lender who has provided a Letter of Intent to the applicant.

(2) When a reservation or certification of award is made through a solicitation process, the reservation or certification of award will be subject to conditions identified in the solicitation documents that may differ from or supplement OAR 813-110-0030.

(3) When a reservation or certification of award is made outside of a solicitation process, OHCS may specify additional conditions that may differ from or supplement OAR 813-110-0030.

(4) Criteria that OHCS may apply in considering an application include but are not limited to the following:

(a) The experience of the sponsoring entity, property management agent and other involved person in providing low-income housing;

(b) Estimated rents or monthly housing payments that would have to be charged or the purchase price that would be required to make the project financially feasible, for the type and location of housing to be provided;

(c) The dollar amount of estimated savings from the reduction in rents from the estimated rents under paragraph (b) of this subsection, or the reduction in monthly housing payments or purchase price, owing to the OAHTC subsidy;

(d) The estimated rent, housing payment reduction, or purchase price reduction under paragraph (c) of this subsection;

(e) How long the OAHTC program tax credits are needed to meet the sponsoring entity's goals of long-term safe, sanitary and affordable housing;

(f) Except for projects falling under OAR 813-110-0013 (2), (3), (4), and (5), the sponsoring entity's statement that the proposed rent reduction or housing payment reduction will be maintained for or offered to households whose annual incomes are 80 percent or less of area median income;

(g) Restrictive covenants that provide for, but are not limited to, appropriate habitability, income and rent restrictions;

(h) The target population to be served;

(i) The need for such affordable housing in the area to be served;

(j) Consistency with the comprehensive housing plan for the state or community;

(k) The location of the project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services and such other facilities and services that best serve the residents;

(l) Availability of street, sewer, water, utilities and other public services;

(m) Architectural design, including universal design principles, aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served;

(n) Compliance with applicable local comprehensive plan and land use regulations, housing codes and other applicable standards;

(o) The experience of the developer, contractors, architects, consultants, and management agents in developing, constructing, and operating housing projects; and

(p) OHCS's experience with the reputation, experience and capacity of the sponsoring entity, project owner and developer and their representatives, employees, and contractors.

(5) Applications are subject to review by OHCS under this rule according to a process that may include, but need not be limited to an invitation only, a first-come first-reviewed or a competitive review process.

(6) The amount of a reservation or certification of award made pursuant to an application under this division, together

with the total outstanding OAHTC program tax credits, may not exceed the maximum allowable amount of OAHTC program tax credits for a project established under program requirements including, but not limited to those established in ORS 317.097(8).

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0025

RULE TITLE: Certification of Eligible Projects

RULE SUMMARY: Updating per statutory changes.

RULE TEXT:

(1) When OHCS determines that it may issue a certification to a lending institution as authorized by ORS 317.097, the certification will include the following as applicable:

(a) The proposed borrower is a qualified borrower;

(b) The qualified borrower has demonstrated that the required benefits will be passed on to households earning less than 80 percent of area median income, except for projects falling under OAR 813-110-0013 (2), (3), (4), and (5), according to program requirements including, but not limited to those in ORS 317.097 and this division;

(c) The length of the period eligible for OAHTC program tax credits; and

(d) The annually generated credit does not exceed the maximum limitation for total annual credits established in ORS 317.097(8).

(2) A certification is based on information provided by the sponsoring entity in the application and as updated by the eligible borrower and the lending institution at permanent loan close and conditioned upon the accuracy of such information.

(3) A certification is valid for the purpose of the OAHTC program tax credit only if the information on which the certification is based, other than estimates based on interest rates and other changes made with the approval of OHCS, is unchanged when the loan is closed for the project and when funding documents satisfactory to OHCS including, but not limited to an appropriate declaration of restrictive covenants have been executed and, as required by OHCS, recorded in the official records of the appropriate county.

(4) To establish the use of a certificate for a fixed rate term loan, a lending institution shall complete the loan closing information section of the certificate and send the original to OHCS along with evidence satisfactory to OHCS that an appropriate declaration of restrictive covenants has been recorded or will be recorded at the close of permanent financing, as required by OHCS, against the project property.

(5) When OHCS approves a OAHTC program tax credit for a construction loan, the lending institution shall complete the loan closing information section of the certificate and send the original to OHCS and shall record the restrictive covenants along with evidence satisfactory to OHCS that an appropriate declaration of restrictive covenants has been recorded or will be recorded at the close of construction financing, as required by OHCS, against the project property.

(a) Projects may only request OAHTC be attached to the construction loan when the project falls under a preservation pass-through exemption as listed in OAR 813-110-0013.

(b) The lender for the construction loan must be the same lender as for the permanent loan.

(c) No new construction project type may request OAHTC be attached to construction loan.

(d) No manufactured dwelling park project may request OAHTC be attached to construction loan.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0026

RULE TITLE: Reservations, Certifications and Other Commitments Subject to Housing Stability Council Approval

RULE SUMMARY: Updating per statutory changes.

RULE TEXT:

Applications for OAHTC program credits follow the approval process set forth in OAR 813-001-0007(1)(b) for review and approval by the Housing Stability Council when combined with OHCS resources subject to Council approval. Based upon any relevant council determination, including with respect to complementary funding, any subject reservation, certification or other commitment may be deemed revoked, be modified, or be further conditioned.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0030

RULE TITLE: Monitoring and Reporting Requirements

RULE SUMMARY: Updating per statutory changes.

RULE TEXT:

A lending institution claiming OAHTC program tax credits under ORS 317.097 is subject to monitoring by OHCS. A lending institution shall submit to the OHCS by May 31 of each year a report satisfactory to OHCS in which the lending institution affirms that the lending institution has met all requirements imposed by law to qualify for the OAHTC program tax credits. The report must be submitted on a form furnished by OHCS and signed by an officer of the lending institution, and:

(1) Shall not include any representation as to the performance by the sponsoring entity; and

(2) Shall include, at a minimum:

(a) The name and address of the lending institution,

(b) The name and contact information of a contact person,

(c) The number of loans for which OAHTC program tax credits will be claimed,

(d) The amount of credit claimed,

(e) The annual charge payment,

(f) The dates the loans were closed,

(g) The name and location of the projects financed by those loans,

(h) The amount loaned for each project,

(i) The outstanding balances of all loans, and,

(j) The average annual balance for each loan.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097

AMEND: 813-110-0037

RULE TITLE: Use of Project; Transfer of Title

RULE SUMMARY: Updating per statutory changes.

RULE TEXT:

(1) The sponsoring entity and the owner of a project, including legally registered owners of a manufactured dwelling park, any successors, assigns or transferees shall operate and maintain the project in a manner consistent with program requirements including, but not limited to its use for eligible occupants, for the term of the OAHTC program credits, up to twenty years.

(2) The sponsoring entity and the owner of a project with USDA RD rent assistance and/or financing attached, including any successors, assigns or transferees shall operate and maintain the project in a manner consistent with program requirements including, but not limited to its use for eligible occupants, for the term of the OAHTC program credits, up to thirty years.

(3) If the title to a project transfers to the lending institution because of a foreclosure, a deed-in-lieu of foreclosure or an involuntary transfer under a bankruptcy proceeding, the lending institution may dispose of the property at its sole discretion.

(4) In the event of a title transfer as described in OAR 813-110-0037(3), the lending institution cedes any rights to any remaining OAHTC program credits.

(5) Early payoff of the loan generating the OAHTC Program tax credits will result in the termination of any future credits not yet claimed by the lender.

STATUTORY/OTHER AUTHORITY: ORS 317.097, ORS 456.515-456.725

STATUTES/OTHER IMPLEMENTED: ORS 317.097