

# **Rules Advisory Committee**

## **Oregon Affordable Housing Tax Credit (OAHTC)**

**Date/Time:** Jan. 20, 10 - 11 a.m.

**Location:** [TEAM Webinar – Registration is required](#)

**Participants:** Committee Members (listed on second page)  
+ Open to public for observation

**Hearing Officer's contact information:** Jaci Davis; [Jaci.Davis@hcs.oregon.gov](mailto:Jaci.Davis@hcs.oregon.gov)

### **Meeting Objectives**

- Conduct Rules Advisory Committee with a diverse group of individuals who are directly impacted by the Oregon Affordable Housing Tax Credit program.
- To create space to uncover different perspectives that can inform the proposed amendments and gather feedback about the potential impacts as required by state rules development process.

### **Agenda**

#### **Welcome & Introductions**

- *Be prepared to share:* name, pronouns, work affiliation and position, and what lens or unique perspective do you bring to today's discussion on the OAHTC program.

#### **Background on the mission of OHCS and a look at the OAHTC proposed rule changes & RAC Responsibility**

#### **Opportunity to Review & Improve the Drafted Economic and Fiscal Impact Statements**

- How will this rule remove barriers and/or otherwise improve access for the communities that you serve?
- Do you see opportunities to adjust the rule to better serve those communities?
- Once this rule is amended, what will your organization need to support this change?

#### **Impact Assessment**

- State RAC procedures require assessment of impact in the following areas:
  - fiscal impact on state agencies, local government, or the public
  - potential of significant adverse impact on small businesses
  - reporting and other administrative activities required for compliance

#### **Next Steps and Closing**

- Review comments and feedback collected during the meeting
- Announce future engagement opportunities & public comment period

# **Rules Advisory Committee**

## **Oregon Affordable Housing Tax Credit (OAHTC)**

### Rules Advisory Committee Members

OHCS RAC Facilitator: Jaci Davis

1. Liz Winchester
2. Kevin Cronin
3. Erik Pattison
4. Joni Hartmann
5. Keith Wooden
6. Lisa Rogers
7. Dan Bryant

### Process Agreements from Rules Advisory Committee

This is intended to be a creative, brave space where we can think about how best to serve Oregonian with this rule change to remove barrier to access housing resources. To accomplish this, participants are asked to respect the following process agreements:

- **Seek common ground & understand divergence:** Practice "Yes, And" to affirm shared values while building on and expanding ideas. Be clear, yet constructive where you have differing experiences and opinions.
- **Share airtime:** Everyone deserves to be heard, and everyone has a piece of the truth. Challenge yourself to engage in ways that honor the voices and thinking space of others. Practice "W.A.I.T": ask yourself, *Why am I talking? Or Why aren't I talking?*
- **Active virtual participation:** To respect the topic, each other, and to make the most of our time together, please practice active virtual participation to the maximum extent able. This includes making sure your zoom name is accurate, keeping your video on, using chat and Q&A functions, raising your hand to engage in open dialogue, responding to polls, engaging in virtual activities, and minimizing multi-tasking.
- **Take care of yourself:** We strive to facilitate high impact RACs where we use our limited time to the fullest, please do what you need to take care of yourself so you can participate fully and do your best thinking.

## Division 110

### OREGON AFFORDABLE HOUSING TAX CREDITS: AFFORDABLE HOUSING PROJECT CERTIFICATION

#### 813-110-0005

##### **Purpose**

OAR chapter 813, division 110 provides specific guidance pursuant to ORS 317.097 under which OHCS certifies affordable multifamily rental 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 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 317.991, & ORS 456.555

**Statutes/Other Implemented:** ORS 317.097, ORS 317.991

##### **History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 29-2014(Temp), f. & cert. ef. 6-5-14 thru 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

OHCS 5-2008, f. & cert. ef. 4-11-08

OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

OHCS 7-2006, f. & cert. ef. 5-17-06

HSG 2-1995, f. & cert. ef. 9-25-95

HSG 7-1994, f. & cert. ef. 9-9-94

HSG 2-1994(Temp), f. & cert. ef. 3-25-94

HSG 3-1992, f. & cert. ef. 2-4-92

HSG 6-1991(Temp), f. & cert. ef. 11-5-91

HSG 2-1991(Temp), f. & cert. ef. 8-7-91

HSG 9-1990, f. & cert. ef. 5-11-90

HSG 3-1990(Temp), f. & cert. ef. 3-1-90

HSG 1-1990(Temp), f. & cert. ef. 1-5-90

#### 813-110-0010

##### **Definitions**

Terms used throughout OAR chapter 813, division 110 may be defined in Oregon Revised Statute (ORS or statute), 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 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 as defined in ORS 317.097(1)(e).

(4) “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 TBD, as described in OAR 813-110-0011. The manual may be accessed online at OHCS’s website.

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

(6) “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), and (4) which do not have a pass-through requirement.

(7) “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

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 12-2016, f. & cert. ef. 10-13-16

OHCS 4-2016(Temp), f. & cert. ef. 5-5-16 thru 10-31-16

OHCS 6-2015, f. & cert. ef. 7-9-15

OHCS 3-2015(Temp), f. & cert. ef. 3-18-15 thru 9-13-15

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

OHCS 2-2009, f. & cert. ef. 8-5-09

OHCS 1-2009(Temp), f. & cert. ef. 2-9-09 thru 8-7-09

OHCS 5-2008, f. & cert. ef. 4-11-08

OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

OHCS 9-2007, f. & cert. ef. 1-11-07

OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07

OHCS 7-2006, f. & cert. ef. 5-17-06

HSG 2-1995, f. & cert. ef. 9-25-95

HSG 7-1994, f. & cert. ef. 9-9-94

HSG 2-1994(Temp), f. & cert. ef. 3-25-94

HSG 3-1992, f. & cert. ef. 2-4-92

HSG 6-1991(Temp), f. & cert. ef. 11-5-91

HSG 2-1991(Temp), f. & cert. ef. 8-7-91

HSG 9-1990, f. & cert. ef. 5-11-90

HSG 3-1990(Temp), f. & cert. ef. 3-1-90  
HSG 1-1990(Temp), f. & cert. ef. 1-5-90

### **813-110-0011**

#### **Oregon Affordable Housing Tax Credit Manual**

(1) Additional policies and instructions are outlined in the OAHTC Manual dated TBD, 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

**History:**

OHCS 21-2022, adopt filed 08/30/2022, effective 09/09/2022

### **813-110-0013**

#### **Loan Requirements**

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

(1) Made to a qualified borrower who;

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

(b) Provides a written declaration to OHCS that the:

(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, 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 benefiting from a project-based voucher,

(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 the project is to be calculated by taking the total loan interest savings over the term of the credit, annualized over the term of the credit, and 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;

(a) Uses the proceeds to finance or refinance 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 30% or more of all households at initial tenant qualification, earning 80 percent or less of the area median income; and,

(c) Provides 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 or refinance 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 a qualified borrower who;

(a) Uses the proceeds to finance 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) For a project to qualify under OAR 813-110-0013 (3) and (4), a minimum of 25 percent of the total units must be covered by the rent assistance contract.

**Statutory/Other Authority:** ORS 317.097, ORS 456.515 & ORS 456.725

**Statutes/Other Implemented:** ORS 317.097

**History:**

OHCS 12-2023, temporary amend filed 06/02/2023, effective 06/02/2023 through 11/28/2023

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 12-2016, f. & cert. ef. 10-13-16

OHCS 4-2016(Temp), f. & cert. ef. 5-5-16 thru 10-31-16

OHCS 22-2013, f. & cert. ef. 12-18-13

Suspended by OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

OHCS 5-2008, f. & cert. ef. 4-11-08

OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

### **813-110-0015**

#### **Application Requirements**

(1) For the purpose of enabling a lending institution to obtain a reservation of OAHTC under ORS 317.097, 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) 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 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) A certification that includes, at a minimum, the statement that all information in the application is true, complete and accurately describes the project;

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

(i) A demonstration relating to occupancy of the units in the project, as required by subsection (2) of this section;

(j) 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;

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

(l) 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.

(3) The following provisions apply to the demonstration relating to occupancy of units that is required in subsection (1) 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.

(4) 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.

(5) Rental units covered by Section 8 project-based assistance are not eligible to be used to demonstrate pass-through savings for the OAHTC program.

(a) Projects that are partially covered with project-based assistance may qualify to use OAHTC on the remaining units by demonstrating pass-through interest savings that result in appropriate rent reductions to the OAHTC qualified tenants.

(b) To the degree this can be achieved in conjunction with tenant vouchers not targeted for pass-through, it is encouraged to be targeted to non-voucher units in the Project.

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(6) 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

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 12-2016, f. & cert. ef. 10-13-16

OHCS 4-2016(Temp), f. & cert. ef. 5-5-16 thru 10-31-16

OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13  
OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13  
OHCS 5-2008, f. & cert. ef. 4-11-08  
OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08  
OHCS 9-2007, f. & cert. ef. 1-11-07  
OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07  
OHCS 7-2006, f. & cert. ef. 5-17-06  
HSG 2-1995, f. & cert. ef. 9-25-95  
HSG 7-1994, f. & cert. ef. 9-9-94  
HSG 2-1994(Temp), f. & cert. ef. 3-25-94  
HSG 3-1992, f. & cert. ef. 2-4-92  
HSG 6-1991(Temp), f. & cert. ef. 11-5-91  
HSG 2-1991(Temp), f. & cert. ef. 8-7-91  
HSG 9-1990, f. & cert. ef. 5-11-90  
HSG 3-1990(Temp), f. & cert. ef. 3-1-90  
HSG 1-1990(Temp), f. & cert. ef. 1-5-90

### **813-110-0020**

#### **Application Review**

(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 that would have to be charged or the purchase price that would be required in order 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 purchase price, owing to the OAHTC subsidy;

(d) The estimated rent 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), and (4), the sponsoring entity's statement that the proposed rent reduction or reduced purchase price 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;

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(i) The target population to be served;

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

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

(l) 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;

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

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

(o) Compliance with applicable land use regulations, housing codes and other applicable standards;

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

(q) OHCS's experience with and 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

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13  
OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13  
OHCS 5-2008, f. & cert. ef. 4-11-08  
OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08  
OHCS 7-2006, f. & cert. ef. 5-17-06  
HSG 2-1995, f. & cert. ef. 9-25-95  
HSG 7-1994, f. & cert. ef. 9-9-94  
HSG 3-1992, f. & cert. ef. 2-4-92  
HSG 6-1991(Temp), f. & cert. ef. 11-5-91  
HSG 2-1991(Temp), f. & cert. ef. 8-7-91  
HSG 9-1990, f. & cert. ef. 5-11-90  
HSG 3-1990(Temp), f. & cert. ef. 3-1-90  
HSG 1-1990(Temp), f. & cert. ef. 1-5-90

### **813-110-0021**

#### **Reservation in Lieu of Certification**

(1) For a reservation granted under OAR 813-110-0025:

(a) The reservation is valid for 240 days and is subject to extension by OHCS at its sole discretion; and  
(b) Is a confirmed reservation unless the lending institution modifies the original letter of intent or there is a failure to comply with material terms of the reservation.

(2) A sponsor that furnishes OHCS a firm commitment of financing prior to the expiration of a reservation is eligible, subject to other program requirements, for issuance of a certification.

(3) A sponsor that has a reservation issued shall notify OHCS of any change in the lending institution as well as any failure to comply with a material term of the reservation.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515-456.725

**Statutes/Other Implemented:** ORS 317.097

#### **History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022  
OHCS 36-2014, f. & cert. ef. 12-2-14  
OHCS 22-2013, f. & cert. ef. 12-18-13  
OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13  
OHCS 5-2008, f. & cert. ef. 4-11-08  
OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08  
OHCS 7-2006, f. & cert. ef. 5-17-06  
HSG 2-1995, f. & cert. ef. 9-25-95  
HSG 7-1994, f. & cert. ef. 9-9-94  
HSG 3-1992, f. & cert. ef. 2-4-92  
HSG 6-1991(Temp), f. & cert. ef. 11-5-91

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515- 456.725

**Statutes/Other Implemented:** ORS 317.097

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

OHCS 5-2008, f. & cert. ef. 4-11-08

OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08

OHCS 7-2006, f. & cert. ef. 5-17-06

HSG 2-1995, f. & cert. ef. 9-25-95

HSG 7-1994, f. & cert. ef. 9-9-94

HSG 3-1992, f. & cert. ef. 2-4-92

HSG 6-1991(Temp), f. & cert. ef. 11-5-91

**813-110-0025**

**Certification of Eligible Projects**

(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 an 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), and (4), 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 loan does not exceed the maximum limitation for total loan balances.

(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 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.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515-456.725

**Statutes/Other Implemented:** ORS 317.097

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

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OHCS 7-2006, f. & cert. ef. 5-17-06

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HSG 7-1994, f. & cert. ef. 9-9-94

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HSG 9-1990, f. & cert. ef. 5-11-90

HSG 3-1990(Temp), f. & cert. ef. 3-1-90

HSG 1-1990(Temp), f. & cert. ef. 1-5-90

**813-110-0026**

**Reservations, Certifications and Other Commitments Subject to Housing Stability Council Approval**

If OHCS provides a reservation, certification of award or otherwise commits to an award of OAHTC under this division and if the amount of any related tax credits or any other OHCS funding approved by OHCS that was considered by OHCS in setting the amount of the tax credits ("complementary funding") meets or exceeds the threshold amount established in OAR 813-001-0007(1) for review by the Housing Stability Council, the reservation, certification or other commitment is subject to review and approval by the council of such tax credit assistance and any such complementary funding. The council may approve, deny, modify or further condition funding assistance subject to its review. 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

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13

**813-110-0027**

**Certification Request by Lending Institution**

(1) The sponsoring entity shall submit on behalf of the lending institution a separate request for each certification of a sponsoring entity requested under the OAHTC program.

(2) The sponsoring entity shall pay a charge as assessed by OHCS for each request for a certification.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515-456.725

**Statutes/Other Implemented:** ORS 317.097

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

**813-110-0029**

**Supplemental Application Charge**

A sponsoring entity of a project under the OAHTC program shall pay a supplemental application charge, as established by OHCS from time to time, when the sponsoring entity requests additional resources for a project that has already been funded under the OAHTC program.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515-456.725

**Statutes/Other Implemented:** ORS 317.097

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

Renumbered from 813-110-0032, OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

**813-110-0030**

**Monitoring and Reporting Requirements**

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, the name and address of the institution, the name and contact information of a contact person, the number of loans for which OAHTC program tax credits will be claimed, the amount of credit claimed, the annual charge payment, the dates the loans were closed, the name and location of the projects financed by those loans, the amount loaned for each project, the outstanding balances of all loans, and the average annual balance for each loan.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515-456.725

**Statutes/Other Implemented:** ORS 317.097

**History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 36-2014, f. & cert. ef. 12-2-14

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13  
OHCS 5-2008, f. & cert. ef. 4-11-08  
OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08  
OHCS 9-2007, f. & cert. ef. 1-11-07  
OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07  
OHCS 7-2006, f. & cert. ef. 5-17-06  
HSG 2-1995, f. & cert. ef. 9-25-95  
HSG 7-1994, f. & cert. ef. 9-9-94  
HSG 3-1992, f. & cert. ef. 2-4-92  
HSG 6-1991(Temp), f. & cert. ef. 11-5-91  
HSG 2-1991(Temp), f. & cert. ef. 8-7-91  
HSG 9-1990, f. & cert. ef. 5-11-90  
HSG 3-1990(Temp), f. & cert. ef. 3-1-90  
HSG 1-1990(Temp), f. & cert. ef. 1-5-90

### **813-110-0031**

#### **Charges**

- (1) A lending institution claiming OAHTC program tax credits under ORS 317.097 shall pay a base charge of 5 percent of the annual tax credits claimed to OHCS annually.
- (2) The Annual Report for the preceding year is due by May 31st.
- (3) OHCS may assess a \$100 per month charge for each full month the annual report is delayed after the due date.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515 - 456.725

**Statutes/Other Implemented:** ORS 317.097

#### **History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022  
OHCS 36-2014, f. & cert. ef. 12-2-14

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515 - 456.725

**Statutes/Other Implemented:** ORS 317.097

#### **History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022  
OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13  
OHCS 5-2008, f. & cert. ef. 4-11-08  
OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08  
OHCS 9-2007, f. & cert. ef. 1-11-07  
OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07  
OHCS 7-2006, f. & cert. ef. 5-17-06  
HSG 3-1992, f. & cert. ef. 2-4-92  
HSG 6-1991(Temp), f. & cert. ef. 11-5-91

HSG 2-1991(Temp), f. & cert. ef. 8-7-91

HSG 9-1990, f. & cert. ef. 5-11-90

### **813-110-0037**

#### **Use of Project; Transfer of Title**

(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 tax 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 tax 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 813-110-0075(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

#### **History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

OHCS 22-2013, f. & cert. ef. 12-18-13

OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

### **813-110-0050**

#### **Waiver**

The Director may waive or modify any requirements of these Program rules unless such waiver or modification would violate applicable state statute or federal regulations.

**Statutory/Other Authority:** ORS 317.097 & ORS 456.515 - 456.725

**Statutes/Other Implemented:** ORS 317.097

#### **History:**

OHCS 21-2022, amend filed 08/30/2022, effective 09/09/2022

Reverted to OHCS 7-2006, f. & cert. ef. 5-17-06

Suspended by OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13

OHCS 7-2006, f. & cert. ef. 5-17-06

# Impact Statement Review

Drafting Impact Statement: complete to the best of our knowledge and reference data known and intent. Use complete sentences and look at our previously filed rule changes as examples. If OHCS Rule Writers need any assistance with the drafting of these impact statements, please reach out the Rules Coordination Team or your manager.

Question 1: Identify whether the rules will have a fiscal impact, either negative or positive, on state agencies, local government, or the public, and if so, the extent of the impact. **There is no known negative fiscal impact to state agencies, local government or the public within these proposed rule changes. This amendment will allow the OAHTC program to continue to operate and elevate financial burdens through the state by supporting affordable housing developments.**

Question 2: Identify whether the rules will have a significant adverse impact on small businesses. What can be done to mitigate the impact on small businesses? **We do not believe there will be a significant adverse impact on small business.**

Question 3: Estimate the number of small businesses subject to these rules, identify types of businesses and industries with small businesses subject to these rules. **There is no known involvement with small business for the OAHTC program.**

Question 4: Describe the projected reporting and other administrative activities required for compliance, including costs of professional services. **Some OAHTC recipients may utilize professional services for some or all of these processes though OHCS is also charged with providing some level of support.**

Question 5: Identify equipment of supplies, labor and increased administration required to comply with rules. **OAHTC recipients are not projected to have any cost associated with supplies, labor or administration to comply with these proposed rule changes.**

Question 6: Describe how OHCS involved small businesses in the development of these rules. **Small businesses including non-profits, community action agencies, and other local housing organizations were involved in the rules advisory committee.**

Question 7: Draft statement identifying how adoption of rule(s) will affect racial equity in this state. **This program provides housing resources to support for very low, low and moderate income families. As communities of color are overrepresented in these income areas, it is believed this program will positively effect racial equity in the state.**