Chapter 406 — Department of Veterans' Affairs

2011 EDITION

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DEPARTMENT OF VETERANS' AFFAIRS

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DEPARTMENT OF VETERANS' AFFAIRS

406.005 Department of Veterans' Affairs; duties; rules. (1) The Department of Veterans' Affairs is established.

(2) The department is under the supervision and control of a director appointed as provided in ORS 406.020.

(3) The department is responsible for the administration of federal and state laws relating to veterans.

(4) The department, with the advice of the Advisory Committee created under ORS 406.210, shall adopt rules that the department considers necessary to carry out the provisions of ORS chapters 406, 407 and 408 and ORS 88.710 to 88.740. [2005 c.625 §1; 2007 c.44 §1; 2009 c.41 §24]

Note: 406.005 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 406 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

406.010 Definition of "director." As used in this chapter, "director" means Director of Veterans' Affairs. [Amended by 2005 c.22 §269]

406.020 Director of Veterans' Affairs; appointment; confirmation. The Department of Veterans' Affairs shall be under the supervision and control of the Director of Veterans' Affairs. The Governor shall appoint the director subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. The appointment may not be made without the written approval of the Advisory Committee provided for in ORS 406.210. The director shall be a veteran, chosen on the basis of executive and administrative ability. [Amended by 1973 c.792 §14; 2005 c.625 §5; 2009 c.41 §6]

406.030 Administration of veterans' laws. (1) The Director of Veterans' Affairs, in the performance of the duties of the director, shall organize and coordinate the administration of all present and future federal and state laws pertaining to veterans, their spouses, dependents and survivors in this state.

(2) As used in this section, "survivor" means the spouse and dependents of a deceased veteran. [Amended by 1971 c.221 §1; 1985 c.790 §4; 1991 c.441 §5; 1999 c.45 §1; 2001 c.104 §140; 2005 c.625 §6; 2007 c.44 §2]

406.040 General powers and duties of department. The powers, authority and duties relating exclusively to veterans' affairs now or hereafter imposed by law upon any officer or agency of this state, are hereby also granted to and imposed upon the Department of Veterans' Affairs. Subject to ORS 406.090, the department shall be responsible for and shall supervise the administration of all such laws. The department may employ such personnel as may be necessary to carry into effect the purposes of this chapter and may prescribe the duties and responsibilities of all such employees. [Amended by 2005 c.625 §7; 2009 c.41 §7]

406.050 Additional powers and duties of director or department; grants, donations and gifts; rules; service charges. In addition to other powers and duties, the Department of Veterans' Affairs is authorized:

(1) To cooperate with officers and agencies of the United States in all matters affecting veterans' welfare.

(2) To accept monetary and nonmonetary grants, donations and gifts on behalf of this state from any person or governmental or nongovernmental entity. The department shall deposit with the State Treasurer all monetary grants, donations and gifts received. The State Treasurer shall credit the amounts deposited to a trust fund established for the purposes of this section. Moneys in the trust fund are continuously appropriated to the department and may be expended for the purposes specified in subsections (3), (4) and (5) of this section. Interest earned on the moneys in the trust fund established under this subsection shall accrue to the trust fund.

(3) To expend all or any portion of a monetary grant, donation or gift for the purposes specified in the grant, donation or gift.

(4) To expend moneys in the trust fund established under subsection (2) of this section as the department deems appropriate for purposes consistent with the department's authority under Articles XI-A and XI-F(2) of the Oregon Constitution and under this chapter and ORS chapters 88, 273, 407 and 408 if:

(a) The department determines that the purpose specified in the grant, donation or gift has been satisfied, has expired or is not feasible or appropriate; or

(b) Expenditure of trust fund moneys is not limited by the specific terms of a specific grant, donation or gift.

(5) To expend or otherwise dispose of a nonmonetary grant, donation or gift received by selling or otherwise converting a grant, donation or gift into moneys unless the sale or conversion is inconsistent with a limitation specified in the grant, donation or gift. Notwithstanding a specified limitation, the department may sell or otherwise convert a nonmonetary grant, donation or gift into moneys if the department determines that the limitation has been satisfied, has expired or is not feasible or appropriate. The department shall deposit the moneys realized from any sale or conversion under this subsection into the trust fund established in subsection (2) of this section.

(6) If the department determines that the nature of a nonmonetary grant, donation or gift makes its use by the department, or its sale or conversion to moneys for use by the department not feasible or appropriate, to donate or otherwise transfer all or any portion of the nonmonetary grant, donation or gift to:

(a) A person or governmental or nongovernmental entity that the department determines is engaged in serving veterans or veterans' survivors or dependents.

(b) A veteran or veteran's survivor or dependent whom the department determines is in need of emergency assistance.

(7) To act as agent or attorney in fact for any veteran and the dependents or beneficiaries of any veteran relating to rights under any federal or state law.

(8) To act without bond as conservator of the estate of:

(a) A person who qualifies for benefits from the United States Department of Veterans Affairs.

(b) A dependent, an immediate family member, a survivor or a former spouse who has not remarried of a person who qualifies for benefits, or who qualified for benefits while alive, from the United States Department of Veterans Affairs, as those persons are defined by rule by the Department of Veterans' Affairs.

(9) On behalf of the State of Oregon, to extend such assistance as the department determines to be reasonably required to any veteran and to the dependents of any such veteran, in the prosecution of any claim before the United States Department of Veterans Affairs, or any other federal or state agency, the securing of employment or relief and any other benefits to which the veteran and the dependents of the veteran might be entitled.

(10) To require and collect such reasonable service charges as the department determines, by rule, are necessary and expedient to carry out a duty, or to exercise a power or authority, conferred on the department by law.

(11) The Department of Veterans' Affairs may adopt rules and regulations with respect to all matters of administration to carry into effect the purposes of this section. [Amended by 1965 c.374 §1; 1967 c.172 §1; 1973 c.823 §127; 1987 c.425 §5; 1991 c.67 §94; 1995 c.106 §1; 1999 c.52 §1; 2001 c.102 §1; 2003 c.152 §1; 2005 c.625 §8; 2009 c.41 §8; 2009 c.602 §§1,1a]

406.055 Authority of director to require fingerprints. (1) In addition to the powers and duties authorized under ORS 406.050, the Director of Veterans' Affairs may, for the purpose of requesting a state or nationwide criminal records check under ORS 181.534, require the fingerprints of a person who:

(a) Is applying for employment with the Department of Veterans' Affairs in a position described in subsection (2) of this section or is employed by the department but is being transferred, promoted or demoted to a position described in subsection (2) of this section; or

(b) Provides goods or services or seeks to provide goods or services to or on behalf of the department as a contractor, subcontractor, vendor or volunteer, or as an employee, member or agent of a contractor, subcontractor, vendor or volunteer.

(2) The director may request fingerprints of a person described in subsection (1) of this section who is in a position in which the person has:

(a) Control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) Access to information that state or federal laws, rules or regulations prohibit disclosing or define as confidential;

(c) Responsibility for payroll, billing, collections or other financial transactions or for purchasing or selling property;

(d) Access to money, negotiable instruments or financial information of the department;

(e) Mailroom duties;

(f) Responsibility for auditing the department or other business entities doing business with the department;

(g) Personnel or human resources functions or access to personnel information;

(h) Access to Social Security numbers, dates of birth or criminal background information of other persons;

(i) Access to tax or financial information of the department or persons employed by the department; or

(j) Access to tax or financial information collected by the department about individuals or business entities. [2009 c.166 §1]

Note: 406.055 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 406 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

406.060 Use of services and facilities of other state agencies. The Department of Veterans' Affairs may utilize the services and facilities of any state agency in the course of administration of any law of this state enacted for the benefit and welfare of veterans and their dependents. All such agencies shall cooperate fully with the department in that regard and furnish such services and facilities when called upon by the department to do so. Neither the authority nor the duties referred to in this section shall be so exercised or performed as to impair the efficient administration of the laws applicable to any state agency. [Amended by 2005 c.625 §9; 2009 c.41 §9]

406.070 Director to qualify and furnish bond; reimbursement for expenses; location of office. The Director of Veterans' Affairs shall qualify in like manner as other heads of state departments, and furnish a fidelity bond in an amount to be fixed by the Governor. The director shall be reimbursed for necessary expenses incurred in the performance of the duties as are other state officers. The director shall maintain the main office of the director at the state capital. [Amended by 1967 c.2 §3]

406.080 [Amended by 1967 c.211 §9; 1987 c.652 §1; repealed by 1987 c.658 §3]

406.085 Revolving account for department when acting as conservator or personal representative of estate of veteran. The Conservatorship Revolving Account is created, separate and distinct from the General Fund, to provide for disbursement of funds for the beneficiary. Funds may also be disbursed from the Conservatorship Revolving Account to the Conservatorship Services Account in compensation for claims arising under ORS 406.100. The Conservatorship Revolving Account shall consist of all money received by the Department of Veterans' Affairs as conservator or personal representative herein. Disbursement from the account shall be made by the department. Interest earned by the account shall be credited to the account. [1965 c.374 §2; 1973 c.823 §128; 1987 c.425 §6; 1989 c.932 §3; 1989 c.966 §44; 2005 c.625 §10; 2007 c.218 §4]

406.090 Sections not affected by parts of this chapter. The administration of ORS 273.035 to 273.051, 273.071, 273.161 to 273.175 and 408.710 to 408.750 shall in no way be affected by ORS 406.010 to 406.070, 406.210, 406.220 and 406.340, and such laws are excepted from the operation thereof. The Department of Veterans' Affairs shall cooperate with the person or agency responsible for the administration of such laws, and shall render such reasonable assistance in that regard as may be requested by any such person or agency. [Amended by 1967 c.421 §201; 1967 c.616 §§28,28a; 2005 c.625 §11]

406.100 Claims against estate by department when acting as conservator. If the Department of Veterans' Affairs is appointed as a conservator under ORS 406.050 or a personal representative under ORS 113.085, the department shall have a claim against the estate of the protected person or the decedent, as the case may be, for all of the following:

(1) Reasonable expenses incurred by the department in the execution or administration of the estate.

(2) After the appointment of the department as conservator, compensation for ordinary services in an amount not to exceed five percent of income to the estate, and reasonable compensation for unusual services as set forth by rule by the department.

(3) After the appointment of the department as personal representative, compensation as provided in ORS 116.173.

(4) With prior approval by the court having probate jurisdiction over the estate, fees charged to the department by the Attorney General for advice or assistance in the performance of the department's duties as conservator or personal representative of the estate. [1987 c.425 §3; 2005 c.625 §12]

406.110 Waiver of claims. The Director of Veterans' Affairs may waive all or any portion of a claim arising under ORS 406.100 if the director finds that payment of the claim, or a portion thereof, would pose a hardship to the person from whose estate the claim is payable, or would deplete the estate. [1987 c.425 §4]

406.120 Conservatorship Services Account; sources; use. (1) The Conservatorship Services Account is established as a separate account within the Oregon War Veterans' Fund. The Conservatorship Services Account shall consist of all moneys received by the Department of Veterans' Affairs as payment of claims arising under ORS 406.100.

(2) The moneys in the Conservatorship Services Account are continuously appropriated to the department for payment of expenses incurred while serving as conservator under ORS 406.050 or personal representative under ORS 406.085.

(3) Moneys in the Conservatorship Services Account shall be held and set aside separately from the other moneys in the Oregon War Veterans' Fund, but such account may be accounted for as part of the Oregon War Veterans' Fund. [1989 c.932 §2; 2005 c.625 §13]

406.130 Veterans' Services Account; uses. There hereby is established in the General Fund of the State Treasury an account to be known as the Veterans' Services Account. Moneys in the Veterans' Services Account are continuously appropriated to the Department of Veterans' Affairs and shall be used by the department for grants and services supplied to veterans by the department under ORS chapters 406 and 408, and for expenses of administration of such grants and services. [1987 c.658 §2; 2005 c.625 §14]

ADVISORY COMMITTEE

406.210 Function of advisory committee; appointment, qualifications and term of members; chairperson; nominations by veterans organizations to fill vacancies. (1) The Governor shall appoint nine persons, all of whom are veterans as defined in ORS 408.225, to constitute the Advisory Committee and to act in an advisory capacity to the Director of Veterans' Affairs concerning all matters upon which the director requests counsel.

(2) The Governor shall make appointments to fill vacancies on the Advisory Committee. When a vacancy occurs, the Governor shall solicit and consider nominations from the executive committees of congressionally chartered veterans' organizations that maintain an Oregon state headquarters. A list of not more than three persons nominated by each executive committee shall be submitted to the Governor within 30 days after the vacancy occurs or, if the vacancy is due to the expiration of a member's term of office, not later than 30 days prior to the expiration of the member's term. Organizations interested in participating in the nomination process shall report the current address of their state headquarters to the Director of Veterans' Affairs. The director shall notify those organizations of any current or anticipated vacancy.

(3) The term of office of a member of the Advisory Committee is four years, and a member may be reappointed upon expiration of the member's term. However, a member of the Advisory Committee may not serve more than two consecutive terms.

(4) After consultation with the Director of Veterans' Affairs, the Advisory Committee shall select one committee member to act as

chairperson of the Advisory Committee, subject to approval by the Governor.

(5) Each participating congressionally chartered veterans' organization shall furnish the director with a copy of its Congressional Charter including any subsequent amendments. [Amended by 1959 c.675 §1; 1975 c.603 §1; 1982 s.s.1 c.11 §8; 1991 c.798 §1; 2009 c.41 §18; 2009 c.206 §1]

406.215 Additional duties of advisory committee. In addition to any other powers and duties granted to the Advisory Committee by law, the Advisory Committee shall:

(1) Work with the Director of Veterans' Affairs to insure that the needs of the veterans and their dependents and survivors who reside in this state are recognized and addressed in a timely and effective manner.

(2) Review current issues affecting veterans and their dependents and survivors who reside in this state and make recommendations relating to those issues.

(3) Review current operations of the Department of Veterans' Affairs and make recommendations to the director concerning the operation of any part of the department.

(4) Make recommendations to the director for the establishment or revision of programs and entitlements for veterans. [1991 c.798 §2]

406.217 Duties of director concerning advisory committee. The Director of Veterans' Affairs shall:

(1) Solicit recommendations from the Advisory Committee on the administration of all federal and state laws affecting veterans, their spouses, dependents and survivors in this state.

(2) Instruct members of the Advisory Committee concerning the operation of all veterans' programs administered by the director. [1991 c.798 §3; 2007 c.44 §3]

406.220 Meetings and reports. The Advisory Committee shall meet within this state at least once each three months. At each such meeting the Director of Veterans' Affairs shall report upon all matters concerning the administration of the office of the director, and shall request the advice and counsel of the committee on matters concerning the policy thereof. Each August the Advisory Committee shall report to the Governor on all matters which it deems pertinent concerning the administration of the office of the director during the preceding year, and concerning any specific matters previously requested by the Governor, and on the administration of ORS 406.010 to 406.070, 406.090 and 406.340. [Amended by 1957 c.25 §1]

406.230 Compensation and expenses of members. Each member of the Advisory Committee is entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1969 c.314 §33]

RELATIONS WITH VETERANS ORGANIZATIONS

406.310 Director authorized to aid veterans organizations. From funds available to the office of the Director of Veterans' Affairs for this purpose, the director, with advice from the Advisory Committee, is authorized to aid veterans' organizations that have been accredited by the United States Department of Veterans Affairs and counties of the state, in connection with their respective programs of service to veterans. [Amended by 1991 c.67 §95; 2007 c.401 §1; 2009 c.41 §19]

406.320 Qualification of veterans organization for state aid. Organizations desiring to apply for benefits under ORS 406.310 shall submit to the Director of Veterans' Affairs statements of their expenditures incurred in conducting their rehabilitation programs, in acting under power of attorney for veterans in connection with claims for benefits, in assisting veterans in prosecutions of their claims and in solution of problems arising out of previous military service. However, a veterans' organization does not qualify for benefits under ORS 406.310 unless it has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding.

406.330 Power to establish regulations for aid program. The Director of Veterans' Affairs, with advice from the Advisory Committee, may adopt such procedural rules and regulations as the director deems advisable in making distribution of funds under ORS 406.310. The director shall also establish a general and uniform policy to be followed by the various organizations and counties in carrying out the work to which the state contributes aid under ORS 406.310. In establishing such policy the director shall give primary consideration to the rehabilitation of the greatest possible number of veterans in Oregon. To that end the director shall eliminate, insofar as possible, a duplication of effort and inefficient expenditure of money. [Amended by 2007 c.401 §2; 2009 c.41 §10]

406.340 Director authorized to accept voluntary services. In performance of the duties of the office of the Director of Veterans' Affairs, the director may accept services voluntarily tendered by any person or organization, and may cooperate with the established service agencies and officers of any organization for the benefit and welfare of all veterans in this state and their dependents or beneficiaries. Insofar as practicable and consistent with the faithful performance of the director's duties, the director shall avoid duplicating the efforts of voluntary service agencies and officers. [Amended by 2009 c.41 §11]

406.410 [1985 c.790 §1; 1991 c.67 §96; repealed by 2007 c.117 §1]

406.420 [1985 c.790 §2; repealed by 2007 c.117 §1]

406.430 [1985 c.790 §3; repealed by 2007 c.117 §1]

COUNTY VETERANS' SERVICE OFFICER PROGRAM

406.448 Definitions. As used in ORS 406.450, 406.452, 406.454 and 406.456:

(1) "Survivor of a veteran" means the spouse or a dependent of a deceased veteran.

(2) "Veteran" has the meaning given that term in ORS 408.225. [2007 c.357 §1; 2009 c.41 §12]

Note: 406.448 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 406 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

406.450 Services provided by county veterans' service officers. (1) The Director of Veterans' Affairs shall establish a program to enhance and expand the services provided by county veterans' service officers appointed under ORS 408.410.

(2) The program shall:

(a) Conduct outreach and provide veterans, spouses and dependents of veterans or survivors of veterans with:

(A) Information regarding veterans' benefit programs and other benefit programs; and

(B) Assistance by trained representatives who are certified by the state in applying for all federal and state veterans' benefits and aid to which veterans, spouses and dependents of veterans or survivors of veterans may be entitled on account of the veterans' military service and in appealing any denial of veterans' benefits or aid;

(b) Develop and offer informational materials and training opportunities for county veterans' service officers;

(c) Develop a comprehensive and coordinated statewide network of information and referral resources for veterans, spouses and dependents of veterans or survivors of veterans;

(d) Ensure that the receipt of veterans' benefits or aid does not adversely impact other benefits or aid that a veteran, the spouse or dependent of a veteran or a survivor of a veteran may be receiving or may be eligible to receive; and

(e) Facilitate coordination of computer systems to ensure the seamless transfer of information. [2005 c.836 §2; 2007 c.357 §2]

406.452 State certification program for veterans' service officers; rules. The Director of Veterans' Affairs may establish by rule a state certification program for veterans' service officers appointed under ORS 408.095 or 408.410 and other individuals providing similar services to ensure their competency. The program curriculum shall provide the training and education necessary to allow veterans' service officers and other individuals to assist veterans, spouses and dependents of veterans or survivors of veterans in applying for all federal and state veterans' benefits and aid to which veterans, spouses and dependents of veterans or survivors of veterans may be entitled and in appealing any denial of veterans' benefits or aid. The curriculum shall include, but need not be limited to, training and education in the following areas:

(1) Applicable federal, state and local laws providing benefits or aid for veterans, spouses and dependents of veterans or survivors of veterans and other benefits or aid for which veterans, spouses or dependents of veterans or survivors of veterans may be eligible;

(2) Skills necessary to provide quality representation and advocacy on behalf of veterans, spouses or dependents of veterans or survivors of veterans, including case preparation and handling of administrative hearings and appeals;

(3) Effective communication skills;

(4) Health care, human services and referral resources; and

(5) Claims management. [2005 c.836 §3; 2007 c.357 §3; 2009 c.759 §2]

406.454 Distribution formula; rules. (1) The Director of Veterans' Affairs shall adopt by rule a formula to distribute to county governing bodies funds appropriated to the director to enhance and expand the services provided by county veterans' service officers appointed under ORS 408.410. In developing the distribution formula, the director shall consider factors that include, but need not be limited to:

(a) The number of veterans residing in each county;

(b) A base amount to be distributed equally among counties;

(c) Retention of an amount, not to exceed six percent of the total amount appropriated to the director for the purposes of ORS 406.450, that would otherwise be distributed to a county governing body if the county governing body has not appointed county veterans' service officers; and

(d) Criteria for withholding funds from a county governing body.

(2) Funds retained under subsection (1)(c) and (d) of this section must be spent on:

(a) Training costs of veterans' service officers and other individuals providing similar services; and

(b) The coordination of computer systems and technology to facilitate efficient delivery of services to veterans, spouses and dependents of veterans or survivors of veterans. [2005 c.836 §4; 2007 c.357 §4]

406.456 Rules. The Director of Veterans' Affairs shall adopt rules to implement ORS 406.450, 406.452 and 406.454. The rules shall include, but need not be limited to:

(1) Development and implementation of a distribution formula;

(2) Establishment of reporting and data collection requirements for county veterans' service officers including, but not limited to, the number of interviews conducted, the number of veterans, spouses and dependents of veterans or survivors of veterans served by the program, the number of claims filed, the outcomes of claims filed and the outreach activities conducted; and

(3) Establishment of service outcomes for county veterans' service officers. [2005 c.836 §5; 2007 c.357 §5]

406.458 Consultation with Association of Oregon Counties. The Director of Veterans' Affairs shall carry out the provisions of ORS 406.450, 406.452, 406.454 and 406.456 in consultation with the Association of Oregon Counties. [2005 c.836 §8]

Note: 406.458 to 406.462 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter

406 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

406.460 Limitation on use of funds by county governing body; exceptions. (1) A county governing body that receives funds under ORS 406.454 may not use the funds to supplant moneys appropriated by the county governing body for county veterans' service officers.

(2)(a) Notwithstanding subsection (1) of this section, if a county governing body reduces appropriations to county programs, the county governing body may reduce the amount of moneys appropriated for county veterans' service officers by an amount not greater than the average percentage reduction imposed on all county programs for the same period of time.

(b) A county governing body that reduces the amount of moneys appropriated for county veterans' services officers under paragraph (a) of this subsection shall certify to the Director of Veterans' Affairs that the amount of the reduction is not greater than the average percentage reduction imposed on all county programs for the same period of time.

(3) Notwithstanding subsection (1) of this section, if the amount of moneys distributed to a county governing body by the Director of Veterans' Affairs to enhance and expand the services provided by county veterans' service officers appointed under ORS 408.410 for biennia beginning after June 30, 2007, is less than the amount of moneys distributed to the county governing body for the 2005-2007 biennium, the county governing body may reduce the amount of moneys appropriated by the county governing body for county veterans' service officers by an amount not greater than the same percentage of reduction. [2005 c.836 §6]

Note: See note under 406.458.

406.462 Distribution of moneys by Director of Veterans' Affairs. (1) Moneys appropriated to the Director of Veterans' Affairs for the purposes described in ORS 406.450 must be distributed to county governing bodies and expended for the purposes of ORS 406.450 and may not be used to supplant moneys currently budgeted by the director for services provided by county veterans' service officers.

(2) Notwithstanding subsection (1) of this section, the director may reduce the amount of moneys distributed to county governing bodies for county veterans' service officers if there is a decrease in the amount of General Fund revenues appropriated to the director for the purposes described in ORS 406.450 for the same period of time. [2005 c.836 §7]

Note: See note under 406.458.

WORLD WAR II MEMORIAL

406.500 World War II Memorial Task Force. (1) The World War II Memorial Task Force is established. The Director of Veterans' Affairs shall be one of the cochairpersons of the task force. The director shall appoint another cochairperson of the task force, and the cochairpersons may appoint other members at their discretion.

(2) The task force shall:

(a) Solicit private funding for the development, design and construction of a memorial to honor Oregon's World War II veterans;

(b) After arranging for full funding for the memorial under paragraph (a) of this subsection, arrange for the development, design and construction of the memorial in the Capitol Mall area near the corner of Court Street and Cottage Street in the City of Salem, Marion County, Oregon; and

(c) Seek the input of World War II veterans, as appropriate.

(3) A majority of the members of the task force constitutes a quorum for the transaction of business.

(4) Official action by the task force requires the approval of a majority of the members of the task force.

(5) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(6) The task force shall meet at times and places specified by the call of one of the cochairpersons or of a majority of the members of the task force.

(7) The task force may adopt rules necessary for the operation of the task force.

(8) Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties. [2011 c.463 §1]

Note: 406.500 and 406.505 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 406 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

406.505 Exception to land use regulations for memorial; maintenance. (1) A World War II memorial constructed by the World War II Memorial Task Force created in ORS 406.500 is an outright permitted use without taking an exception under ORS 197.732 to the statewide land use planning goals or changing the acknowledged comprehensive plan or land use regulations of Marion County.

(2) The Department of Veterans' Affairs shall maintain the finished memorial. [2011 c.463 §2]

Note: See note under 406.500.

Chapter 407 — Veterans Loans

2011 EDITION

VETERANS LOANS

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407.020 [Amended by 1967 c.245 §1; 1971 c.221 §2; renumbered 407.115]

407.030 [Amended by 1977 c.383 §8; renumbered 407.125]

407.035 [1981 c.659 §7; renumbered 407.505]

407.040 [Amended by 1953 c.97 §2; 1957 c.125 §1; 1963 c.163 §1; 1965 c.269 §1; 1967 c.112 §1; 1969 c.615 §1; 1971 c.221 §3; 1973

c.574 §1; 1975 c.6 §1; 1975 c.263 §1; 1977 c.676 §3; 1979 c.177 §1; 1981 c.604 §1; 1982 s.s.1 c.11 §12; 1983 c.387 §1; renumbered 407.205]

407.042 [1981 c.366 §2; renumbered 407.385]

407.043 [1977 c.676 §2; renumbered 407.397]

407.045 [1969 c.523 §1; renumbered 407.215]

407.048 [1977 c.315 §2; 1981 c.628 §1; 1982 s.s.1 c.11 §13; 1983 c.445 §4; renumbered 407.255]

407.050 [Amended by 1957 c.125 §2; 1971 c.221 §4; 1973 c.574 §2; 1975 c.219 §2; renumbered 407.225]

407.055 [1977 c.383 §1; 1981 c.565 §3; 1983 c.445 §5; renumbered 407.175]

407.058 [1977 c.383 §3; 1983 c.445 §6; renumbered 407.235]

407.060 [Repealed by 1971 c.743 §432]

407.061 [1977 c.383 §4; 1983 c.445 §7; renumbered 407.245]

407.063 [1981 c.387 §1; 1982 s.s.1 c.11 §14; renumbered 407.305]

407.065 [1979 c.176 §3; renumbered 407.265]

407.070 [Amended by 1955 c.151 §1; 1957 c.125 §3; 1969 c.615 §5; 1971 c.221 §5; 1975 c.219 §3; 1977 c.676 §4; 1981 c.387 §2; 1982 s.s.1 c.11 §17; renumbered 407.275]

407.072 [1969 c.615 §3; 1971 c.221 §6; 1975 c.219 §4; 1977 c.645 §1; 1981 c.659 §5; renumbered 407.325]

407.073 [1969 c.615 §4; 1971 c.221 §7; 1977 c.676 §5; 1983 c.420 §3; renumbered 407.335]

407.074 [1955 c.102 §§2,3,7; 1975 c.219 §5; 1979 c.238 §1; renumbered 407.465]

GENERAL PROVISIONS

407.075 Purpose; legislative intent. (1) The provisions of this chapter are intended to carry out the purposes of Article XI-A of the Oregon Constitution. The Legislative Assembly recognizes that its authority to define the scope and purpose of this chapter is limited by the purposes expressed in Article XI-A.

(2) The primary purpose of this chapter is to provide loan funds to qualifying Oregon veterans for the acquisition or improvement of farms and homes. The Legislative Assembly does not intend, by any past or present enactment, to establish as a principal purpose of this chapter the providing of subsidized energy financing. [1983 c.445 §9]

Note: 407.075 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 407 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

407.076 [1955 c.102 §§4,5,6; 1969 c.433 §1; 1979 c.35 §1; 1979 c.238 §2; renumbered 407.475]

407.080 [Amended by 1975 c.219 §6; renumbered 407.135]

407.085 Definitions. (1) As used in Article XI-A, Oregon Constitution, and this chapter, for the purposes of administration:

(a) "Acquisition" means:

(A) Purchase and improvement of a home or farm.

(B) Payment of the balance of the purchase price and interest on a purchase contract, and the improvement of property thereby acquired.

(C) Refinance of an existing purchase-money mortgage or mortgage in the nature thereof, and the improvement of property thereby purchased.

(D) Improvement of a home or farm.

(b) "Bonds" includes, but is not limited to, serial bonds, term bonds, notes, obligations, lines of credit, revolving credit agreements, loans, financing agreements or other evidence of indebtedness determined by the Department of Veterans' Affairs, with the approval of the State Treasurer, to be necessary or desirable to provide funds for the purposes expressed in Article XI-A of the Oregon Constitution.

(2) As used in this chapter:

(a) "Committee" means the Advisory Committee provided for by ORS 406.210.

(b) "Home" means any residential-type structure, including outbuildings and the real property in connection with it, if any, including long-term leaseholds, which is established, maintained and used primarily as a principal residence by the veteran.

(c) “Improvement” means new construction or any necessary or beneficial additions, alterations or changes appurtenant to the home or farm which protect or improve the basic livability or energy efficiency of the premises.

(d) “Mobile home” means a structure, transportable in one or more sections, which is 10 feet or more in width, and contains more than 500 square feet of living space figured on exterior dimensions of the structure, exclusive of any hitch and is designed to be used as a dwelling by one family, and which remains as personal property under the laws of this state. [Formerly 407.010; 2001 c.98 §5; 2005 c.625 §15]

407.090 Definition of “veteran.” As used in section 3, Article XI-A of the Oregon Constitution, “veteran” means a person who:

(1) Served on active duty with the Armed Forces of the United States:

(a) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released from active duty under honorable conditions;

(b) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;

(c) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;

(d) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or

(e) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;

(2) Received a combat, expeditionary or campaign ribbon or medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or

(3) Is receiving a nonservice-connected pension from the United States Department of Veterans Affairs. [2009 c.527 §1]

Note: 407.090 was enacted into law but was not added to or made a part of ORS chapter 407 or any series therein by law. See Preface to Oregon Revised Statutes for further explanation.

407.095 Policy against foreclosure; rules. (1) It is the policy of the State of Oregon to make every reasonable attempt to keep a veteran in the home purchased under the loan program when the veteran is unable to make required loan payments because of illness, injury, death, involuntary job loss or economic stress due to factors beyond individual control. The Department of Veterans’ Affairs, by rule, shall implement such state policy. Rules adopted by the department under this section:

(a) May provide for a temporary reduction of loan payment.

(b) May provide for any other solution jointly agreed to by the borrower and the department.

(c) Shall provide for repayment of the amount of any loan payments reduced under the rules in accordance with terms and conditions agreed upon by the borrower and the department.

(2) In reducing loan payments under this section, the department must consider the effect of such reduction on the solvency of the program as a whole, on estimates of the most probable financial position of the program for one or more future periods, the condition of the tax exempt bond market, and the effect on other borrowers in the program. [1982 s.s.1 c.11 §3; 2005 c.625 §16]

407.100 [Renumbered 407.155]

407.110 [Renumbered 407.595]

407.115 Administration of loan program; rules. The Department of Veterans’ Affairs shall administer the provisions of ORS 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565. The department may adopt all necessary rules not inconsistent with those sections to carry into effect their provisions. The department may appoint assistants and agents necessary to expeditious and efficient administration and fix their compensation. [Formerly 407.020; 2005 c.625 §17]

407.120 [Amended by 1975 c.219 §8; renumbered 407.165]

407.125 Loans to qualified person. All moneys in the Oregon War Veterans’ Fund created by ORS 407.495 may be advanced by the Department of Veterans’ Affairs as loans to any person qualified for loans under the provisions of section 3, Article XI-A, Oregon Constitution, for the acquisition of farms and homes, as provided in ORS 407.115, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565 and not otherwise. [Formerly 407.030; 1991 c.798 §6; 1995 c.238 §3; 2005 c.625 §18]

407.129 [1987 c.509 §§2,3; repealed by 1993 c.159 §1]

407.130 [Amended by 1967 c.369 §2; 1979 c.115 §1; repealed by 1981 c.660 §18]

407.131 Discount of principal; rules. The Department of Veterans’ Affairs, by rule, may discount a portion of the principal payable to the department in connection with a home or farm loan or in connection with a purchase contract for a home or farm if such action results in economic benefit to the home and farm loan program after considering the time value of money. [1987 c.509 §4; 2005 c.625 §19]

407.135 Authority of department; disposition of certain moneys. The Department of Veterans’ Affairs is authorized and empowered, in the name and in behalf of the state to commence and prosecute to judgment all suits, actions and proceedings necessary to protect the interest of the state; to bid in property offered for sale under such proceedings and to acquire title to property for and in

behalf of the state as a result of such proceedings; to accept deeds from borrowers in lieu of foreclosure; to sell, transfer, convey, lease or assign any property acquired by the department for and in behalf of the state; to make repairs and improvements or alterations; to pay taxes, liens and charges of every kind superior to the lien of the state; and otherwise to administer such property in such manner as the department deems to the best interest of the state. All money received by the department from the sale, leasing or other disposition of any property shall be paid over to the State Treasurer and deposited in the Oregon War Veterans' Bond Sinking Account. [Formerly 407.080; 1987 c.652 §3; 2003 c.576 §439; 2005 c.625 §20]

407.140 [Amended by 1975 c.462 §12; 1981 c.660 §36; renumbered 407.415]

407.145 Purchase and control of property; disbursements to protect security. (1) The Department of Veterans' Affairs may acquire property by purchase when the acquisition of such property is necessary to protect the interest of the state because of default in repayment of loans made in accordance with ORS 407.125 or statutes supplementary thereof. The department shall exercise control of all the property while the title remains vested in the state.

(2) The department may take any action and make disbursements as may be necessary to protect the securities for loans acquired under this chapter. Any disbursement so made shall be added to the amount due from the borrower and shall bear interest at the rate then fixed for home improvement loans under ORS 407.325 or at the rate on the existing loan, whichever is higher. Any such disbursement shall be made only upon order of the department.

(3) Funds for the protection of security may be disbursed from the Oregon War Veterans' Fund including the Oregon War Veterans' Bond Sinking Account as the department shall determine. [Formerly 407.090; 1987 c.131 §1; 1987 c.652 §4; 1997 c.214 §1; 2005 c.625 §21]

407.150 [Repealed by 1981 c.660 §18]

407.155 Execution and custody of documents. All deeds, leases, contracts, releases of mortgages and other instruments necessary or proper in the administration of this chapter shall be executed in behalf of the state by the Department of Veterans' Affairs and shall be acknowledged by the department; and all deeds, mortgages, notes, insurance policies, abstracts and other instruments, documents and papers delivered to the department in the administration of those sections shall be kept in the custody of the department. [Formerly 407.100; 2005 c.625 §22]

407.160 [Amended by 1967 c.335 §49; 1967 s.s. c.19 §2; 1983 c.798 §10; renumbered 407.495]

407.165 Authority to hold certain funds received from borrower. The Department of Veterans' Affairs may receive and hold for future disposition conditional payments from borrowers who have executed mortgages and security instruments under authority of ORS 407.225, indemnities for fire losses on secured property, and such other sums as must be held by the department in suspense pending further or final disposition thereof. Said funds shall be deposited in the State Treasury in the revolving account authorized by ORS 407.565 until they can be properly applied to the purposes for which they were paid to and received by the department. [Formerly 407.120; 2005 c.625 §23]

407.169 Escrow accounts; standards; interest; rules. (1) The Department of Veterans' Affairs shall make escrow accounts available to current and future borrowers and contract purchasers in connection with loan agreements and purchase contracts made under this chapter.

(2) Escrow accounts established under this section shall be consistent with general lending and servicing standards for real estate loan agreements in this state and with the standards used by the United States Department of Veterans Affairs and the Federal Housing Administration.

(3) Notwithstanding ORS 86.245 (5) and (7), the Department of Veterans' Affairs shall pay interest to a borrower or contract purchaser on funds deposited in the escrow account for the borrower or contract purchaser in the manner and at the rate of interest described in ORS 86.245 (1) to (4).

(4) The department shall adopt such rules as the department considers necessary to establish criteria for implementation of this section.

(5) As used in this section, "escrow account" means any account which is part of a real estate loan agreement or purchase contract, whether incorporated into the agreement or contract or as part of a separately executed document, whereby the borrower makes periodic prepayment to the department of estimated property taxes, and the department pays the charges out of the account at the due dates. [1989 c.580 §2; 1995 c.182 §4; 2005 c.625 §24]

407.170 [Amended by 1967 c.335 §50; 1981 c.660 §37; renumbered 407.515]

407.175 [Formerly 407.055; repealed by 1995 c.238 §8]

407.177 Loan processing and servicing contracts with lending institutions; terms; procedures. (1) When the Department of Veterans' Affairs considers such contracts necessary to improve the financial condition of the loan program conducted under this chapter, the department is authorized to enter into contracts with lending institutions under which the lending institutions may provide any of the following services:

(a) Processing of new loans and purchase contracts; and

(b) Management and servicing of new loans and purchase contracts.

(2) Contracts entered into by the department under this section may provide that the lending institution:

(a) Receive applications for loans for the acquisition of homes or farms under this chapter;

(b) Immediately investigate and process an application for a loan as provided by law; and

(c) For approved loans or contracts, if requested by the department, service the loan or purchase contract for a period of time specified by the department.

(3) When a lending institution, pursuant to a contract authorized by this section, receives an application for a loan for the acquisition of a manufactured home, as defined in ORS 197.295, the lending institution shall investigate and process the application in the manner prescribed in the contract between the lending institution and the department.

(4) When a lending institution, pursuant to a contract authorized by this section, investigates and processes a loan application that it considers eligible for approval under this chapter, the lending institution shall notify the department and state the reasons why the loan may be approved under this chapter. The department shall retain final authority to approve or disapprove the loan. If the department disapproves the loan, the department shall notify the lending institution and the applicant of the disapproval and shall indicate the reasons for the disapproval. When the department is satisfied that all requirements for approval of a loan have been met by the applicant and the lending institution and that the property offered as security for the loan protects the interests of the state, the department shall transfer to the lending institution an amount of money from the Oregon War Veterans' Fund equal to the loan amount approved by the department. The lending institution shall disburse the money in the manner prescribed by the department. The lending institution shall record the mortgage, trust deed, contract or other security agreement relating to the loan and then shall forward all the original loan documents to the department.

(5) All moneys received by a lending institution as payments on principal and interest for loans made under this chapter shall be paid to the department in accordance with the terms of the contract between the department and the lending institution.

(6) The department and lending institution shall mutually agree upon the compensation to be paid to the lending institution for services performed under a contract authorized by this section. Such compensation may be a fixed annual payment or a percentage of the amount of each loan or purchase contract processed or serviced by the lending institution under the contract.

(7) Contracts entered into under this section are exempt from the requirements of the provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C regarding personal services contracts.

(8) As used in this section, "lending institution" means an entity that is licensed to conduct business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans and that, in the judgment of the department, is capable of meeting the needs of the department in carrying out this chapter. [1989 c.746 §2; 1993 c.35 §1; 1995 c.238 §4; 1997 c.802 §18; 1999 c.50 §1; 2003 c.794 §273; 2005 c.625 §§25,26]

407.179 Additional powers delegated to lending institution; authority retained by department. In addition to the powers described in ORS 407.177, the Department of Veterans' Affairs also may delegate by contract to a lending institution any of the powers granted to the department in ORS 407.165 and 407.225. The department shall retain final authority to approve or disapprove loans and interpret the duties and responsibilities of borrowers under this chapter. [1989 c.746 §4; 1995 c.238 §5; 2005 c.625 §27]

407.180 [Renumbered 407.525]

407.181 Authority of lending institution. In exercising the authority granted to it by ORS 407.177 to 407.181, a lending institution shall perform only the services that are delegated to it by contract entered into under ORS 407.177, and shall comply with the terms of the contract and applicable laws. [1989 c.746 §3]

407.183 [1967 s.s. c.1 §2; 1967 s.s. c.19 §1; 1969 c.615 §6; renumbered 407.535]

407.185 Cash flow projection; annual review; report. In addition to, and not in lieu of, the audit required by ORS 297.210 the Department of Veterans' Affairs may contract with an independent public accountancy organization for a review of the cash flow projection for the loan program established under this chapter and Article XI-A of the Oregon Constitution and of the assumptions used in developing that projection. The review shall be conducted in accordance with the review guidelines developed by the American Institute of Certified Public Accountants (AICPA). Such contract shall require a written report, copies of which shall be provided to the Governor, the Secretary of State, the State Treasurer, the President of the Senate, and the Speaker of the House of Representatives by the department no later than December 31 of each year. Payment for the services required under the contract shall be paid from funds appropriated for the administration of the department. [1982 s.s.1 c.11 §4; 1989 c.489 §1; 1997 c.35 §1; 1999 c.322 §38; 2005 c.625 §28]

407.186 [1967 s.s. c.1 §3; renumbered 407.545]

407.190 [Amended by 1967 c.454 §45; 1971 c.80 §3; renumbered 407.555]

407.195 Loans not being amortized; identification; notice to borrowers. (1) The Director of Veterans' Affairs shall identify each farm or home loan made under this chapter with moneys from the Oregon War Veterans' Fund which, at the current rate of payment by the borrower, is not being amortized or will not be fully amortized by the agreed to date.

(2) The director shall notify each borrower making payments on a loan identified under subsection (1) of this section that, at the current rate of payment, the loan principal will not be fully paid by the final payment date. The notice shall also include:

(a) The current principal balance.

(b) The current monthly principal and interest payment.

(c) The estimated monthly principal and interest payment necessary to reduce the principal balance to zero by the agreed to date.

(d) The estimated time remaining until the obligation is fully paid at the current payment level and the difference between that time and the agreed to date.

(3) The notice required under this section shall be made a part of the annual statement to borrowers for the calendar year 1989 and thereafter. [1987 c.652 §22]

407.200 [Amended by 1967 c.189 §1; 1971 c.80 §4; 1983 c.740 §128; renumbered 407.565]

407.201 Required disclosure of credit information and loan terms. (1) When making a loan or otherwise extending credit under this chapter with moneys from the Oregon War Veterans' Fund, the Department of Veterans' Affairs shall comply with Title I (Truth in Lending Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.) in the same manner required for a bank or national bank, as defined in ORS 706.008, when the bank extends credit in a transaction in which a security interest in real property is or will be acquired.

(2) In addition to the requirements of subsection (1) of this section, the department shall notify each person seeking to acquire a home or farm under this chapter, prior to the signing of a loan agreement or contract, of the variable interest rate provisions of ORS 407.275, 407.315, 407.325 and 407.335. Information required to be disclosed under this subsection includes a history of the interest rate increases on loans during the preceding 10 years and an estimate of the financial effect that an increase of one percent in the interest rate will have on the borrower's obligation under the mortgage, contract or other security agreement. [1987 c.652 §20; 1997 c.631 §470; 2005 c.625 §29]

LOAN PROCEDURES AND CONDITIONS

407.205 Application for loan; amount of loan; limit on number of loans; exception. (1) Applications for loans for acquisition of a home or farm under this chapter shall be made to the Department of Veterans' Affairs. Loans exclusive of funds disbursed under ORS 407.145 (2) and 407.275 (4) may not exceed the maximum original principal balance permitted on a single-family first mortgage loan by the Federal National Mortgage Association, as published in its announcements and subsequently included in its Selling Guide, at a rate of interest provided by ORS 407.325. Except as provided in subsection (2) of this section, an eligible individual may not receive or, under ORS 407.305, assume more than two loans under this chapter. An applicant may not borrow more than the maximum amount allowed under this section, except that when a loan is made on property that is destroyed by fire or other natural hazard, taken through condemnation or lost or disposed of for a compelling reason devoid of fault on the part of the applicant and when the loan is repaid or the property is transferred by deed or otherwise, the loan may be excluded from consideration in computing the maximum loan allowable. However, the loan right provided in this section may be restored not more than once while an unrepaid balance remains on a previous loan granted to the applicant.

(2) The department may allow an eligible individual to receive or, under ORS 407.305, assume more than two loans under this chapter when:

(a) The loan received or assumed is an additional loan made for the improvement of the farm or home acquired with an initial loan for the acquisition of that property; or

(b) The last official certification of record by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States shows the eligible individual to be at least 50 percent disabled. However, a loan may be made to an eligible disabled veteran under this paragraph only if the veteran must acquire a different principal residence for compelling medical reasons or because the veteran is transferred by an employer for employment purposes or because the veteran's spouse is transferred by an employer for employment purposes and the spouse provides more than 50 percent of the household income.

(3) For the purposes of this section, an applicant owns a home when the applicant has fee simple title to the home or is the purchaser of the home under a contract of sale or other instrument of sale. Earnest money or preliminary sales agreements, options or rights of first refusal are not contracts or instruments of sale under this subsection.

(4) As used in this section, "home" includes mobile homes and houseboats. [Formerly 407.040; 1989 c.677 §5; 1991 c.67 §97; 1993 c.192 §1; 1997 c.36 §1; 1999 c.41 §1; 2005 c.625 §30; 2007 c.43 §1]

407.210 [Amended by 1963 c.9 §23; renumbered 407.575]

407.215 Loan transferred by annulment or dissolution judgment excluded in determining maximum allowable. No applicant is entitled to borrow more than the maximum amount allowed under ORS 407.205 other than for reasons specified in ORS 407.205 except that when the property on which the loan was made becomes the property of the applicant's spouse as a result of a judgment declaring a marriage void or dissolved and the loan is repaid or remains unrepaid and there is an assumption of primary liability on the loan by a party, such loan may be excluded from consideration in computing the maximum loan allowable under ORS 407.205. [Formerly 407.045; 2003 c.576 §440]

407.225 Investigation and processing of loan application; security; maximum amounts of loans. (1) When the Department of Veterans' Affairs receives an application pursuant to ORS 407.205, the department shall immediately investigate and process it as provided by law. The security for the loan shall consist of the property to be acquired by the veteran as a home or a farm. The security shall be secured by a mortgage or security agreement in the full amount of the loan which mortgage or security agreement shall be either a first lien or a lien insured by mortgagee's title insurance against loss from any prior encumbrance. The department may make subsequent loans for improvements to the security if there are no intervening liens between the first lien of the department created under this section and the recorded liens upon the security securing repayment of such subsequent improvement loans. Such consecutive liens, for the purposes of this chapter, shall be deemed collectively as a first lien upon the security. The mortgage or security agreement shall provide that the borrower, or any subsequent owner of the secured property, may pay all or any part of the loan at any time without penalty.

(2) A mobile home shall be secured by a security agreement in the full amount of the loan and the department shall perfect a

security interest in favor of the State of Oregon. The security agreement shall provide that the borrower or any subsequent owner of the mobile home, may pay all or any part of the loan at any time without penalty. The security agreement shall provide for immediate acceleration of the unpaid balance of the loan if the mobile home is moved from the original site listed in the security agreement without first obtaining the written consent of the department. The security agreement shall also provide that removal of the mobile home to a site outside of this state shall constitute an act of default and result in immediate acceleration of the unpaid balance of the loan.

(3) Loans may not exceed:

(a) 100 percent of the net appraised value on homes that are real property;

(b) 85 percent of the net appraised value on homes that are not real property; and

(c) 90 percent of the net appraised value on farms that are real property. [Formerly 407.050; 1985 c.296 §3; 1997 c.214 §2; 2003 c.49 §1; 2005 c.20 §1; 2005 c.625 §31]

407.235 [Formerly 407.058; 1985 c.296 §4; repealed by 1995 c.238 §8]

407.245 [Formerly 407.061; repealed by 1995 c.238 §8]

407.255 [Formerly 407.048; 1987 c.652 §5; repealed by 1995 c.238 §8]

407.265 Loans for home or farm improvements; terms and conditions. (1) An applicant for a loan solely for the improvement of a home or farm may receive the loan if:

(a) The applicant has not previously received a loan under this chapter;

(b) The applicant has received a loan under this chapter for the acquisition of that home or farm for which there is an unpaid balance and repayment has been satisfactory; or

(c) The applicant has previously received a loan under this chapter and there is no unpaid balance remaining on that loan.

(2) Any loan made to an applicant who qualifies under subsection (1)(b) of this section for a loan solely for the improvement of a home or farm may be added to the amount due from the applicant and shall bear interest at the rate prescribed in ORS 407.325. [Formerly 407.065; 1987 c.221 §1; 1997 c.214 §3]

407.275 Terms of loan to veteran and transferee. (1) Loans may be made bearing interest at the rate per annum prescribed as provided by ORS 407.325. Loans may be amortized over a period of not more than 40 years for homes other than mobile homes. Loans for mobile homes may be amortized over a period not exceeding the expected life of the mobile home, as determined by the Department of Veterans' Affairs. The limitations contained in this subsection do not preclude the department from later extending the amortization period.

(2) If the ownership of the secured property is transferred by deed or otherwise to anyone other than a veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution, the veteran's surviving spouse or unremarried former spouse, the veteran's surviving child or stepchild, another veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution who assumes the previous loan for the property as described in ORS 407.305 or a governmental entity when the secured property is transferred for public use, the interest from the date of transfer shall be at the rate per annum then fixed as provided by ORS 407.335. However, the department, during the term of the loan, may periodically prescribe the interest rates to be paid by the transferee.

(3) Ownership of property that constitutes security for a loan made to a veteran under this chapter and Article XI-A of the Oregon Constitution may not be transferred by deed or otherwise to anyone other than the veteran's surviving spouse, unremarried former spouse, surviving child or stepchild or another veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution who assumes the previous loan for the property as described in ORS 407.305, unless the property is used primarily as the principal residence of the transferee for at least two years after the transfer or such shorter period of time as the department for good cause may allow.

(4) Mortgages, trust deeds or security agreements on property given to secure any loan made under ORS 407.125 or statutes supplementary thereof may provide that the taxes and insurance premiums may be paid by the department from the Oregon War Veterans' Bond Sinking Account. The amount so paid may be added to and become part of the principal of the loan and be repaid as prescribed by the department. The department may prescribe any method or period for repayment of the amount so paid that is not in conflict with the mortgage, trust deed or security agreement. The department may prescribe any method or period for repayment of interest on the amount so paid that is not in conflict with the mortgage, trust deed, security agreement or a separate agreement with the borrower. [Formerly 407.070; 1987 c.221 §2; 1987 c.652 §6; 1987 c.767 §1; 1995 c.238 §1; 2005 c.625 §32; 2007 c.766 §1]

407.285 Rate of interest payable by certain transferees. (1) Notwithstanding the repeal of section 5, chapter 11, Oregon Laws 1982 (first special session), during the term of a loan for which the interest rate was initially fixed under section 5, chapter 11, Oregon Laws 1982 (first special session), the Department of Veterans' Affairs may periodically prescribe the interest rate to be paid by the transferee. However, the interest rate for such loans may not at any time be less than the rate initially fixed under section 5, chapter 11, Oregon Laws 1982 (first special session), nor exceed a rate per annum which is one percent higher than the rate initially fixed under section 5, chapter 11, Oregon Laws 1982 (first special session).

(2) The department may prescribe the interest rate to be paid by the transferee at a rate greater than the rate described in subsection (1) of this section, but only to the extent necessary to avoid invoking the provisions of section 4, Article XI-A of the Oregon Constitution. [1982 s.s.1 c.11 §7; 1987 c.221 §3; 2005 c.625 §33]

407.295 Transfer to spouse; notice to department; notice of delinquent payment. When an ownership interest or possession of a home or farm securing a loan received under this chapter is transferred to the spouse or former spouse of the original borrower as a result of any judicial order or judgment, the Department of Veterans' Affairs shall be notified in writing of the transfer by the transferee

not later than 30 days after the transfer occurs. If the original borrower remains obligated under the order or judgment to make the payments on the principal and interest of the loan, the department shall notify the transferee when any such loan payment is not received by the 30th day after the payment is due. [1983 c.420 §5; 2003 c.576 §441; 2005 c.625 §34]

407.305 Assumption of previous loan by eligible veteran; additional funds. When a veteran who is eligible for a loan under this chapter and Article XI-A of the Oregon Constitution seeks to acquire a home or farm that is serving as security for a previous loan made under this chapter, the veteran may choose either to receive a new loan for the property or to assume the previous loan. If the loan balance for the loan being assumed does not exceed the amount of the veteran's entitlement under ORS 407.205, the interest rate to be paid on the assumed loan balance shall be the rate per annum prescribed under ORS 407.315. In addition to the amount assumed, the veteran may apply for and receive additional funds to be applied to the purchase price. The interest rate to be paid on the additional funds shall be the rate per annum currently prescribed under ORS 407.325. The sum of the assumed loan balance and the additional funds shall not exceed the amount of the veteran's entitlement under ORS 407.205 or the percentage of the net appraised value prescribed by ORS 407.225 (3). An assumption or an assumption with additional funds under this section shall be deemed to be one loan and the veteran making the assumption or the assumption with additional funds shall be deemed to be a borrower for the purposes of ORS 407.145, 407.205, 407.215, 407.325, 407.385, 407.465 and 407.475. [Formerly 407.063; 1985 c.296 §5; 1987 c.221 §4; 1995 c.238 §6]

407.310 [Repealed by 1981 c.660 §18]

407.315 Interest rate for veteran's assumption; variable rate; effect of rate on cash flow; rules. (1) When a veteran assumes a previous loan under ORS 407.305, the interest rate to be paid by the veteran from the date of assumption shall be the rate per annum prescribed periodically by the Department of Veterans' Affairs, taking into consideration the solvency of the loan program and the interest rates currently prevailing in this state for loans secured by owner-occupied residential property.

(2) The department shall make a cash flow projection to determine if assumptions at the interest rate established under subsection (1) of this section are among the causes of a negative cash flow projection for the loan program. The cash flow projection required by this section shall be an estimate of the revenue received from the repayment of mortgages, interest earnings, administrative expenses of the loan program, payment of interest and principal on outstanding debt and other relevant factors during the period in which current outstanding bonds are required to be retired.

(3) If the cash flow projection required under subsection (2) of this section indicates that assumptions of loans at the interest rate established under subsection (1) of this section are a cause of a negative cash flow projection for the loan program, the department, by rule and notwithstanding ORS 407.325 (2), shall increase the interest rate to be paid for loans assumed under ORS 407.305 to the lowest rate per annum that assures a positive cash flow projection, but not exceeding the rate then prescribed under ORS 407.325. [1982 s.s.1 c.11 §15; 1987 c.221 §5; 1987 c.564 §1; 2005 c.625 §35]

407.320 [Repealed by 1981 c.660 §18]

407.325 Rate of interest on loans. (1) The Department of Veterans' Affairs, with the advice of the Advisory Committee, will periodically, during the term of the loan, prescribe the interest rates to be paid by the applicant, taking into consideration the current value of the money, the solvency of the loan program, and the rates' effect on veterans. If the department, after considering the factors specified in this section, determines that there is an economic need for a higher rate of interest on loans made for the acquisition of mobile homes and houseboats, the department shall prescribe the rate of interest for the acquisition of a mobile home or houseboat at not higher than two percent more per annum than the basic rate established by this section.

(2) Except as provided in subsection (3) of this section:

(a) The rate of interest on loans granted on or after May 27, 1971, and originally set at five and nine-tenths percent per annum may not be increased to more than seven and nine-tenths percent per annum.

(b) The rate of interest on loans granted on or after January 1, 1981, and originally set at seven and two-tenths percent per annum may not be increased to more than nine and two-tenths percent per annum.

(c) The rate of interest on a loan granted on or after May 27, 1971, for the acquisition of a mobile home or houseboat originally set at seven and nine-tenths percent per annum may not be increased to more than nine and nine-tenths percent per annum.

(3) The department may prescribe the interest rates to be paid by the applicant at a rate greater than the rates described in subsection (2) of this section, but only if the department determines, at the sole discretion of the department, that such action reduces the probability that invoking the provisions of section 4, Article XI-A of the Oregon Constitution will become necessary.

(4) When, during two consecutive fiscal years, the cash flow projection and the review of the projection performed under ORS 407.185 indicate that the Oregon War Veterans' Bond Sinking Account will maintain a balance throughout the term of the projections that exceeds the succeeding years' debt service and operating expenses for the loan program, the department shall prepare a program for reducing the interest rates charged under this section in such a manner as to insure the future solvency and self-supporting nature of the loan program. However, no reduction in interest rates shall occur if the variable rate debt, if converted to a fixed rate, requires retention of the amounts in order to meet projections.

(5) Notwithstanding the rate prescribed for acquisition of a home as provided in subsections (1) to (4) of this section, the department may periodically establish separate and distinct interest rates for home improvement loans. [Formerly 407.072; 1985 c.296 §6; 1987 c.221 §7; 1989 c.171 §48; 1989 c.728 §4; 1997 c.214 §4; 2005 c.625 §36]

407.327 Department to prescribe fixed or variable interest rates. (1) The Department of Veterans' Affairs may prescribe fixed or variable rates on the following:

(a) Loans or purchase contracts made after September 27, 1987, for acquisition of homes or farms.

(b) Obligations on loans or purchase contracts made on or before September 27, 1987, where ownership of the property subject to the loan or purchase contract is transferred after September 27, 1987.

(2) The department may modify loan agreements or purchase contracts made before September 27, 1987, by changing fixed interest rates to variable or variable interest rates to fixed, if all the parties to such loan agreements or contracts agree in writing to such modification. [1987 c.221 §§11,12; 2005 c.625 §37]

407.330 [Repealed by 1981 c.660 §18]

407.335 Rate of interest payable by transferee; limit on transfers; rules. (1) The rate of interest referred to in ORS 407.275 (2) shall be prescribed periodically by the Department of Veterans' Affairs, taking into consideration the solvency of the loan program and the interest rates currently prevailing in this state for loans secured by residential property. However, a transfer may not be made at a rate lower than the interest rate existing on the loan immediately prior to the transfer.

(2) When the department considers it necessary to change the rate of interest under subsection (1) of this section, the department, after 30 days' notice to the public, may prescribe a new rate under this section.

(3) During the term of a loan for which the interest rate was initially prescribed under subsection (1) of this section, the department may periodically prescribe the interest rate to be paid by the transferee. However, the interest rate for such loans may not at any time be less than the rate initially prescribed under subsection (1) of this section nor exceed a rate which is one percent higher than the rate initially prescribed under subsection (1) of this section.

(4) The department may prescribe the interest rate to be paid by the transferee at a rate greater than the rate described in subsection (3) of this section, but only to the extent necessary to avoid invoking the provisions of section 4, Article XI-A of the Oregon Constitution.

(5) Except for a sale or transfer to the original borrower, the surviving spouse, unremarried former spouse, surviving child or stepchild of the original borrower, or a veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution, only one sale or transfer of the property referred to in ORS 407.275 (2) is permitted after July 20, 1983. In the event of a second sale or transfer of the property, or any part thereof, the entire unpaid balance of the loan for the property may become immediately due and payable at the discretion of the department as prescribed by rule. [Formerly 407.073; 1987 c.221 §8; 1987 c.653 §1; 1989 c.490 §1; 2005 c.625 §38]

407.340 [Amended by 1975 c.462 §13; repealed by 1981 c.660 §18]

407.345 [1982 s.s.1 c.12 §2; 1987 c.652 §7; repealed by 1991 c.262 §1]

407.349 Late charges authorized for periodic payments. When a periodic installment payment due under a loan agreement or purchase contract made pursuant to this section and ORS 407.169 or under a prior agreement or contract authorizing a late charge is not received by the Department of Veterans' Affairs by the due date, the department may impose a late charge with respect to any such payment as prescribed in ORS 86.160 to 86.185. [1989 c.580 §3; 1997 c.40 §1; 2005 c.625 §39]

407.350 [Repealed by 1981 c.660 §18]

407.355 [1983 c.219 §2; 1985 c.287 §2; 1987 c.661 §2; 1991 c.262 §3; repealed by 1995 c.238 §8]

407.360 [Repealed by 1981 c.660 §18]

407.365 [1983 c.219 §3; repealed by 1995 c.238 §8]

407.370 [Amended by 1975 c.614 §15; repealed by 1981 c.660 §18]

407.375 Sale of foreclosed properties; improvement in lieu of down payment; interest rate; redemption of property; rules. (1) When the Department of Veterans' Affairs offers for sale a home or farm obtained for and in behalf of the state under ORS 407.135 and 407.145 (1), the department shall provide notice of the proposed sale to prospective purchasers. The notice shall state the minimum bid that will be accepted.

(2) Subject to subsection (3) of this section, the department shall accept the highest such bid or offer received during the 15-day period after a home or farm acquired under ORS 407.135 or 407.145 (1) is first offered for sale unless the person making the highest bid or offer is disqualified from such purchase based on prior credit history, inadequate income or other grounds for refusal established in rules adopted by the department. Prior to such refusal, the person making the highest bid or offer shall be given the opportunity to purchase the property for cash.

(3) When the highest bid under subsection (2) of this section is made by a person who is not eligible for a loan under Article XI-A of the Oregon Constitution, the person who submits the highest bid or offer received from those persons eligible for a loan under Article XI-A of the Oregon Constitution shall be given the opportunity to purchase the property for the amount bid by the highest bidder. The property must be purchased by matching the highest bid within a period of time and at a place specified by rule of the department.

(4) When the department sells a home or farm obtained under ORS 407.135 or 407.145 (1) to a person, the department may accept improvement of the property by such purchaser in lieu of other means of satisfying the requirements of ORS 407.225 (3). For the purpose of this section, all purchasers are subject to the provisions of ORS 407.225 (3). The department shall require the purchaser to provide an improvement plan containing a description of the proposed improvements to be made and the cost of the necessary work and materials. An appraiser employed by the department must certify that the ratio of the purchase price and the net appraised value of the home and farm after the proposed improvement is completed will satisfy the requirements of ORS 407.225 (3). The department may then approve

the sale subject to the condition that the improvement of the home or farm be completed within 180 days after purchase. Failure by the applicant to complete the improvement within the time allowed shall be considered a breach of the purchase agreement and grounds for foreclosure by the department. Upon timely application and a showing that the improvement cannot be completed within the time allowed because of circumstances beyond the applicant's control, the department may grant the applicant an additional period not to exceed 180 days in which to complete the improvement.

(5) The rate of interest for a contract made for the acquisition of a home or farm obtained by the department under ORS 407.135 or 407.145 (1) shall be the rate per annum prescribed by the department.

(6) Notwithstanding subsection (5) of this section, if the provisions of subsections (1) to (3) of this section have been complied with and no satisfactory bid has been received, the department, after considering the time value of money, may sell the home or farm at a private negotiated sale at any price or at any rate of interest, either fixed or variable, that the department considers to be necessary and prudent to sell the property and that provides an economic benefit to the home and farm loan program that is equivalent to the property being marketed at the current appraised value of the property and the rate prescribed under subsection (5) of this section.

(7) Except as provided in this subsection, redemption of a home or farm obtained and sold by the department under ORS 407.135 or 407.145 (1) shall be made as provided in ORS 18.960 to 18.985. When the department accepts improvement of property by a purchaser in lieu of purchase money or cash down payment under subsection (4) of this section, redemption shall be made by paying an amount equal to the fair market value of those improvements actually made to the property under the improvement plan described in subsection (4) of this section, with interest thereon at the rate of nine percent per annum from the date of sale. The department shall determine the fair market value of the improvements and such amount shall be paid in addition to the amount of purchase money and interest thereon required under ORS 18.966 and 18.967. [1982 s.s.1 c.11 §2; 1983 c.184 §1; 1985 c.287 §1; 1987 c.426 §3; 1987 c.661 §§5,6; 2005 c.542 §69; 2005 c.625 §40]

407.377 Sale or management of foreclosed property under personal services contract. If the Department of Veterans' Affairs enters into any personal services contract under which any other person is authorized to sell or manage homes or farms obtained for and in behalf of this state under ORS 407.135 and 407.145 (1), then ORS 407.375 may not apply to the sale of such homes or farms by that person. [1987 c.661 §4; 2005 c.625 §41]

407.380 [Amended by 1967 c.335 §51; repealed by 1980 c.17 §1 and by 1981 c.660 §18]

407.385 Prohibition against using loan for purpose other than farm or home acquisition; prompt use of farm or home as principal residence; extension; exception; penalty. (1) Money received as a loan under this chapter shall be used only for the acquisition of a home or farm.

(2) Except as provided in this section, use of all or any part of a loan received under this chapter for investment or any purpose other than the acquisition of a home or farm constitutes an act of default and results in immediate acceleration of the unpaid balance of the loan.

(3) When the Department of Veterans' Affairs determines that a borrower is using loan moneys in violation of this section, the department shall immediately commence any action or proceeding necessary to recover for the state those moneys or any property obtained therewith.

(4) A failure by a borrower to move into the home or farm securing the borrower's loan and to use it as the borrower's principal residence within 60 days after the loan or assumption is made, or within such extension as may be granted in writing by the department, shall be conclusively presumed to constitute a violation of this section. A request for an extension for good cause shall be made in writing within the 60-day period. The applicant may file a written request for a hearing within 30 days after a denial of the request for extension.

(5) The department may not approve any rental or lease of a home or farm that affects the federally tax exempt status of bonds issued under Article XI-A of the Oregon Constitution. When the rental or lease does not affect the federally tax exempt status of such federally tax exempt bonds, the department may approve in writing the rental or lease of a home or farm after the home or farm is used as the principal residence of the borrower. The department may establish factors to consider when determining whether to approve the rental of a home or farm. [Formerly 407.042; 1987 c.767 §3; 1991 c.262 §2; 1995 c.238 §7; 1999 c.46 §1; 2001 c.98 §1; 2005 c.625 §42]

407.390 [Repealed by 1981 c.660 §18]

407.395 [1953 c.595 §1; repealed by 1981 c.660 §18]

407.397 [Formerly 407.043; repealed by 1985 c.296 §10]

407.400 [Repealed by 1981 c.660 §18]

407.410 [Repealed by 1981 c.660 §18]

GENERAL OBLIGATION BONDS

407.415 Issuance of bonds. In order to provide funds for the purposes specified in Article XI-A of the Oregon Constitution, the Department of Veterans' Affairs may request the State Treasurer to issue bonds in accordance with the provisions of ORS chapter 286A. [Formerly 407.140; 2001 c.98 §2; 2005 c.625 §43; 2007 c.783 §181]

407.420 [Amended by 1971 c.418 §12; repealed by 1981 c.660 §18]

407.425 Factors considered before requesting bond issuance. The Department of Veterans' Affairs shall request the State Treasurer to issue bonds as provided in ORS chapter 286A whenever the department determines that bonds are to be issued under ORS 407.415. In order to meet the specific requirements of a selected group of applicants for loans under this chapter and before asking the State Treasurer to structure an issue of bonds under this authority, the Department of Veterans' Affairs may consider factors including, but not limited to, the number of applications and loans on hand, the amount of debt that will be financed or refinanced by the issue, directly or indirectly, the solvency of the program as a whole, the current value of money, the condition of the tax exempt and taxable bond markets and the effect of the issue on all veterans. [1982 s.s.1 c.12 §4; 2001 c.98 §3; 2005 c.625 §44; 2007 c.783 §182]

407.430 [Repealed by 1971 c.743 §432]

407.435 Issuance of bonds for tax payment; conditions; term. Notwithstanding the general obligation and revenue bond limits required by ORS 286A.035, the State Treasurer may issue general obligation bonds on behalf of the Department of Veterans' Affairs in an amount not to exceed the amount reasonably expected to be advanced for the payment of taxes for veterans each tax year. Such bonds shall mature in no more than 18 months and may be sold as determined by the State Treasurer. [1983 c.445 §11; 2007 c.783 §183]

407.440 [Repealed by 1981 c.660 §18]

407.445 [1982 s.s.1 c.12 §3; repealed by 1991 c.262 §1]

LIFE AND MORTGAGE INSURANCE

407.465 Loan cancellation life insurance. (1) Subject to the limitations provided for in this chapter, the Department of Veterans' Affairs may provide loan cancellation life insurance for any person described in ORS 407.475.

(2) The insurance may insure the life of the person who receives or assumes the loan or who is the contract purchaser and the life of the spouse or former spouse of that person for all or a portion of the amount of principal and interest due on the state loan or contract. However, for each loan or contract, the lives of not more than two persons shall be insured. The State of Oregon shall be named the beneficiary of the insurance. When an individual insured under this chapter dies, the proceeds of the insurance shall be used to pay all or the insured portion of the balance of the state loan or contract, and the department shall issue a revised payment plan or a satisfaction of the loan or contract. [Formerly 407.074; 1985 c.221 §1; 1987 c.132 §1; 2005 c.625 §45; 2009 c.29 §1]

407.475 Persons insurable under ORS 407.465. Any person receiving or assuming a loan or making a contract under this chapter for the acquisition of a home or farm, and the spouse or former spouse of that person, may be insured under the insurance provided for by ORS 407.465 upon complying with such rules relating to that insurance as the director may adopt. [Formerly 407.076; 1985 c.221 §2; 1987 c.132 §2]

407.480 Definitions for ORS 407.480 to 407.490. As used in ORS 407.480 to 407.490:

(1) "Insurance" means any mortgage guarantee or mortgage insurance against financial loss by reason of:

(a) Collection activity;

(b) Foreclosure; or

(c) Foreclosure by the Department of Veterans' Affairs under ORS 407.135.

(2) "Mortgage" includes a trust deed. [1989 c.677 §2; 2005 c.625 §46]

407.485 Agreements for mortgage insurance; terms; amount; required coverage. (1) The Department of Veterans' Affairs may enter into an agreement with any public or private organization or with any federal or state governmental agency to provide insurance for qualified mortgages.

(2) The terms of the agreement for insurance, including the amount of insurance and the premium therefor, shall be agreed upon by the department and the organization or agency.

(3) Insurance provided under this section may not exceed coverage of the loan balance for property secured by a mortgage or trust deed to the department.

(4) If a qualified borrower borrows an amount under this chapter that is 80 percent or less of the net appraised value of the home or farm that secures the loan, the department may approve the loan without requiring insurance. [1989 c.677 §3; 1993 c.192 §2; 1995 c.238 §2; 2005 c.625 §47]

407.490 Mortgage insurance claims; liability of department. After assignment transfer and delivery by the Department of Veterans' Affairs of all rights in the insured property to the organization or person providing insurance, the department shall not be liable to any borrower for any claim or grievance arising out of the insurance agreement or the loan agreement. [1989 c.677 §4; 2005 c.625 §48]

FINANCES

407.495 Oregon War Veterans' Fund; sources; uses. (1) The money arising from the sale of each issue of bonds authorized under section 2, Article XI-A, of the Oregon Constitution, shall be deposited in the State Treasury and be credited to a special fund separate and distinct from the General Fund, to be known as the Oregon War Veterans' Fund; which fund hereby is appropriated for the purpose of carrying out the provisions of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415 and 407.515 to 407.565 and to purchase bonds issued for the purposes of such provisions. With the approval of the Department of Veterans' Affairs, the moneys in the fund not immediately required for loaning may be invested as provided in ORS 293.701 to 293.820. The earnings from such investments shall inure to the Oregon War Veterans' Fund.

(2) In addition to the money arising from the sale of such bonds, the Oregon War Veterans' Fund shall also consist of:

(a) All moneys received as payments on principal and interest of loans made under ORS 407.125;

(b) All moneys received as accrued interest upon bonds sold;

(c) All moneys derived from tax levies provided for in ORS 291.445;

(d) All moneys derived from the sale, rental or administration of property acquired by foreclosure or other proceeding, or deed;

(e) All moneys received as interest earned on the investment of moneys in the Oregon War Veterans' Fund;

(f) All moneys received as proceeds from the sale of refunding bonds; and

(g) All other moneys accruing under this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565.

(3) All moneys in the Oregon War Veterans' Fund are continuously appropriated to the Department of Veterans' Affairs for the following purposes:

(a) To carry out the provisions of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565;

(b) To purchase bonds issued for the purposes of such provisions; and

(c) Except for moneys derived from the sale of bonds or from tax levies, for payment of expenses of the administration of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.425, 407.435, 407.555 and 407.565.

(4) With the approval of the department, the moneys in the Oregon War Veterans' Fund not immediately required to provide loans for the acquisition of farms and homes may be invested as provided in ORS 293.701 to 293.820. The earnings from such investments shall be credited to the Oregon War Veterans' Fund. [Formerly 407.160; 1987 c.652 §10; 1991 c.220 §11; 2005 c.625 §49]

407.505 Loan moneys to be reserved for borrower prior to loan commitment. (1) When the Department of Veterans' Affairs determines that an applicant's loan may be approved in accordance with this chapter, the department, before making a loan commitment, shall reserve an amount of money in the Oregon War Veterans' Fund equal to the amount requested by the applicant to be used only for payment to the applicant which shall be set aside in the Direct Commitment Reserve Account.

(2) Moneys in the Oregon War Veterans' Fund Direct Commitment Reserve Account shall be reserved as loan proceeds for an applicant under subsection (1) of this section and may not be used for any other purpose unless the applicant cancels the application for the loan prior to receipt of the loan proceeds. [Formerly 407.035; 2005 c.625 §50]

407.510 [Repealed by 1967 c.421 §206]

407.515 Oregon War Veterans' Bond Sinking Account; sources; use. (1) The Oregon War Veterans' Bond Sinking Account is created as a restricted account within the Oregon War Veterans' Fund. The sinking account shall consist of:

(a) All moneys received as payments on principal and interest of loans made under ORS 407.125;

(b) All moneys received as accrued interest upon bonds sold;

(c) All moneys derived from tax levies provided for in ORS 291.445;

(d) All moneys derived from the sale, rental or administration of property acquired by foreclosure or other proceeding, or deed;

(e) All moneys received as interest upon investments of the account and the Oregon War Veterans' Fund;

(f) All moneys received as proceeds from the sale of refunding bonds; and

(g) All other moneys accruing under ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 not required to be credited to the Oregon War Veterans' Fund.

(2) Disbursements from the sinking account shall be made upon submission of duly verified claims that are approved by the Director of Veterans' Affairs. The Secretary of State may audit the claims in the manner that other claims against the state are audited. The moneys in the sinking account, other than those derived from tax levies and from sales of refunding bonds, are continuously appropriated for payment of expenses of administration of ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565. The moneys in the sinking account may be invested as provided in ORS 293.701 to 293.820.

(3) Amounts in the sinking account shall be held and set aside separately from the amounts in the Oregon War Veterans' Fund and any other funds or assets of this state, but such account may be accounted for as part of the Oregon War Veterans' Fund.

(4) The debt service reserve account within the sinking account shall be maintained as a subaccount within the sinking account dedicated to provide funds for the payment of bonds issued under authority of Article XI-A of the Oregon Constitution.

(5) Nothing in this section shall be construed so as to impair any covenant or agreement with the holders of such bonds heretofore entered into by the director on behalf of this state with respect to the maintenance of the sinking account as heretofore constituted and any such covenant and agreement shall remain in full force and effect.

(6) The director may create subaccounts in the sinking account necessary for appropriate administration of the director's duties including, but not limited to, providing for the issuance, security, payment or administration of bonds or to preserve the federally tax exempt status of bonds issued on a federally tax exempt basis. The director may segregate such subaccounts from other subaccounts used for other purposes including, but not limited to, the issuance, security, payment or administration of bonds or other obligations, whether previously or subsequently issued. [Formerly 407.170; 1987 c.425 §7; 1987 c.652 §13; 1989 c.932 §4; 1991 c.220 §12; 2001 c.98 §4; 2011 c.222 §2]

407.520 [Repealed by 1967 c.421 §206]

407.525 Transfer of sinking account moneys to veterans' fund; retransfer. The Department of Veterans' Affairs may transfer moneys in the sinking account, except those derived from tax levies and those received from the sale of refunding bonds, to the Oregon War Veterans' Fund for the home and farm loan purposes of the Oregon War Veterans' Fund or pay the moneys directly from the sinking fund for the home and farm loan purposes of the Oregon War Veterans' Fund. When sufficient moneys are available in the Oregon War

Veterans' Fund, the department may transfer back to the sinking account an amount not exceeding the total transferred from the sinking account to the Oregon War Veterans' Fund or paid directly from the sinking fund for the home and farm loan purposes of the Oregon War Veterans' Fund. [Formerly 407.180; 1987 c.652 §14; 2005 c.625 §51; 2007 c.783 §184]

407.530 [Repealed by 1967 c.421 §206]

407.535 [Formerly 407.183; repealed by 1987 c.652 §12]

407.540 [Repealed by 1967 c.421 §206]

407.541 [Repealed by 1967 c.421 §206]

407.545 [Formerly 407.186; repealed by 1987 c.652 §12]

407.550 [Repealed by 1967 c.421 §206]

407.555 Auditing and payment of claims. Except as provided in ORS 407.415, all claims duly approved by the Department of Veterans' Affairs, incurred in pursuance of ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565, shall be paid by warrants drawn upon the State Treasurer by the Oregon Department of Administrative Services upon the appropriate funds for the payment of such claims. [Formerly 407.190; 2005 c.625 §52]

407.560 [Repealed by 1967 c.421 §206]

407.565 Revolving account. The Oregon Department of Administrative Services is authorized to draw a warrant on the Oregon War Veterans' Fund in favor of the Department of Veterans' Affairs in a sum not to exceed $2 million, which sum shall constitute an advance to be used in anticipation of the verified vouchers supplied in accordance with this section; and may be used only as a revolving account, separate and distinct from the General Fund, to be maintained with the State Treasurer, for receipt and disbursement of moneys received under authority of ORS 407.165 and for payment of general operating expenses. All reimbursement vouchers for claims paid from the revolving account shall be verified by the Department of Veterans' Affairs and presented to the Oregon Department of Administrative Services for payment. The warrants issued by the Oregon Department of Administrative Services shall be drawn in favor of the Department of Veterans' Affairs and shall be used to reimburse the revolving account. [Formerly 407.200; 1989 c.966 §45; 2005 c.625 §53]

407.570 [Repealed by 1967 c.421 §206]

407.575 [Formerly 407.210; 1987 c.652 §11; repealed by 1991 c.220 §15]

407.580 [Repealed by 1967 c.421 §206]

VETERANS' SMALL BUSINESS REPAIR LOAN PROGRAM

407.582 Establishment of program; eligibility; rules. (1) As used in this section:

(a) "Deployment" means an act in which a person was ordered to active duty and was deployed outside the United States.

(b) "Mobilization" means an act in which a person left the person's home station and was transferred to a mobilization site for federal service.

(c) "Small business" means a business that:

(A) Is a corporation, partnership, sole proprietorship or other legal entity licensed and located in Oregon and formed for the purpose of making a profit, and that is independently owned and operated from all other businesses; and

(B) Employs 50 or fewer persons.

(d) "Veteran" means a person who owns a controlling interest in a small business and who, at the time of the person's mobilization or deployment, is:

(A) A member of the Oregon National Guard; or

(B) A member of the reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States and a resident of Oregon.

(2) There is established in the Department of Veterans' Affairs the Veterans' Small Business Repair Loan Program. The purpose of the program is to assist any veteran whose small business, due to the veteran's absence, incurred a setback during the veteran's mobilization or deployment by providing an interest-free loan to the veteran upon the veteran's return from mobilization or deployment. The loan shall be used by the veteran to restore the veteran's small business, to the extent feasible, to the condition the small business was in prior to the veteran's mobilization or deployment.

(3) A veteran may receive a maximum of two loans under the program. Each loan may not exceed $20,000. Application for a loan must be made within 12 months after demobilization.

(4) The department shall adopt by rule:

(a) Criteria that a small business must meet to qualify as having incurred a business setback while the veteran was mobilized or deployed;

(b) The application process and any necessary forms;

(c) Terms of loan repayment; and

(d) Other criteria and processes necessary to carry out the purposes of the program.

(5) If a veteran is deceased as a result of the veteran's mobilization or deployment, the unremarried surviving spouse of the deceased veteran is eligible to apply for and receive a loan to continue the veteran's small business.

(6) If a veteran is at the time of the loan application no longer a member of the Oregon National Guard or the reserves, the veteran must have been discharged under honorable conditions.

(7) The Department of Veterans' Affairs, in consultation with the Oregon Business Development Department, shall review and reject or approve loan applications submitted by veterans.

(8) Repayments of loans made under this section shall be deposited in the Veterans' Small Business Repair Loan Fund established under ORS 407.585. [2008 c.18 §19]

Note: 407.582 and 407.585 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 407 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

407.585 Veterans' Small Business Repair Loan Fund. The Veterans' Small Business Repair Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Veterans' Small Business Repair Loan Fund shall be credited to the fund. Moneys received from legislative appropriations and repayments of loans shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Veterans' Affairs for the purposes of funding loans under ORS 407.582. [2008 c.18 §20]

Note: See note under 407.582.

407.590 [Repealed by 1967 c.421 §206]

MISCELLANEOUS

407.595 Loans not subject to execution or assignment. No right, payment or proceeds of any loan made under ORS 407.125 or statutes supplementary thereof shall be subject to garnishment, attachment or execution or the claim of any creditor; nor shall any such right or payment be capable of assignment except as may be necessary for completion of any loan applied for and then only under such rules and regulations as may be prescribed by the Department of Veterans' Affairs. [Formerly 407.110; 2005 c.625 §54]

407.600 [Repealed by 1967 c.421 §206]

407.610 [Amended by 1953 c.106 §2; repealed by 1967 c.421 §206]

407.620 [Repealed by 1967 c.421 §206]

407.630 [Repealed by 1967 c.421 §206]

407.640 [Repealed by 1967 c.421 §206]

407.650 [Repealed by 1953 c.106 §2]

407.660 [Repealed by 1953 c.106 §2]

407.990 [Amended by 1967 c.421 §202; repealed by 1971 c.743 §432]

Chapter 408 — Miscellaneous Benefits for Veterans and Service Personnel

2011 EDITION

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408.010 "Beneficiary" defined for ORS 408.010 to 408.090. As used in ORS 408.010 to 408.090, unless otherwise required by the context, "beneficiary" means any person who served in the active Armed Forces of the United States on or after June 25, 1950, who was relieved or discharged from that service under honorable conditions and who was also a resident of Oregon at the time the person applied for benefits under ORS 408.010 to 408.090. "Beneficiary" does not include an alien, an alien enemy, a person who avoided combat service by claiming to be a conscientious objector, a person who served less than 90 days in the Armed Forces of the United States or a person inducted or enlisted in the military or naval service who received civilian pay for civilian work. [Amended by 1957 c.195 §1; 1965 c.517 §1; 1967 c.382 §1; 1993 c.139 §1; 2005 c.831 §1; 2007 c.857 §1]

408.020 Financial aid for educational purposes; limitations on payments and on eligibility for aid. (1) Beneficiaries who desire to pursue an approved course of study or professional training in or in connection with any accredited state or other public school or accredited private school or accredited college shall have the right and privilege of state financial aid as provided in ORS 408.010 to 408.090.

(2) State financial aid is payable at the rate of $150 per month for each month of full-time study or training and $100 per month for each month of part-time study or training.

(3) The total number of monthly payments under subsection (2) of this section may not exceed the total number of months served in the Armed Forces of the United States or 36, whichever is less.

(4) The Director of Veterans' Affairs may permit a beneficiary to attend a school or college outside of this state upon a satisfactory showing that the training required is not available in an accredited institution within this state.

(5) A beneficiary may not receive payments or benefits under ORS 408.010 to 408.090 at the same time that the beneficiary is receiving educational aid under any federal Act based upon prior service in the Armed Forces. Time spent by a person who applies for benefits under ORS 408.010 to 408.090 in the army specialized training program, the Navy V-12 program or other like training program may not be counted as service in the Armed Forces within the purview of ORS 408.010. [Amended by 1967 c.383 §1; 1995 c.343 §38; 2005 c.831 §2; 2007 c.857 §2]

408.025 [1955 c.206 §2; 1957 c.24 §1; repealed by 2005 c.831 §4]

408.030 Filing application with educational institution. Any beneficiary who desires to pursue a course of study or professional training may file, upon a form approved by the Director of Veterans' Affairs, an application with the executive head of the institution in which the beneficiary desires to pursue such course. In the application the beneficiary shall set forth the date of enlistment or induction into the service of the United States, the date of discharge, a certified copy of the discharge or document evidencing release from active duty, the courses of study the beneficiary desires to pursue, and the length of time the beneficiary intends to pursue such courses. [Amended by 1995 c.343 §39]

408.040 Handling of application by institution and director; when benefits begin. (1) The person to whom an application is made pursuant to ORS 408.030 shall examine and pass upon such application and shall, within 10 days after its receipt by the person, indorse approval or disapproval thereof. If the application is approved it shall be forthwith forwarded to the Director of Veterans' Affairs, who shall check it. The director shall determine whether or not the institution of learning or career school is accredited and if the tuition and other charges are reasonable. The director shall also determine whether or not the institution of learning or career school is reasonably qualified to provide the instruction desired by the beneficiary. The director shall be satisfied that the beneficiary has reasonable qualifications to pursue the course of study chosen and that such course, if satisfactorily completed, is likely to enable the beneficiary to become a more useful citizen. If all said conditions are met to the satisfaction of the director, the director may approve the application and file it in the office of the director; otherwise the director shall deny it.

(2) Upon approval of an application, benefits are payable beginning with the first day of the applicant's attendance during the current term of an institution of learning or career school, after a finding by the director, supported by evidence satisfactory to the

director, that any delay in making application was caused by excusable oversight or neglect. [Amended by 1995 c.343 §40]

408.050 Monthly statement by institution. On or before the 10th day of each calendar month the executive head of the institution of learning or authorized representative, shall render a duly certified statement to the Director of Veterans' Affairs, setting forth the names of the beneficiaries attending the institution during the preceding calendar month and the amount of schooling or training furnished such beneficiaries in accordance with ORS 408.010 to 408.090. The statement shall contain a report of the attendance and general attitude and aptitude of each beneficiary, and the number of hours of recitation, lectures or other training scheduled, and a statement of the beneficiary's diligence and progress.

408.060 Monthly payment of financial aid. (1) The monthly payments provided in ORS 408.020 shall be allowed to any beneficiary who is enrolled in an approved full-time or part-time course of study or professional training.

(2) Upon receipt of the monthly statement provided for in ORS 408.050, the Director of Veterans' Affairs, if the director finds that the monthly statement is correct, shall issue a voucher to the Oregon Department of Administrative Services which shall draw a warrant on the State Treasurer or make an electronic transfer in favor of each beneficiary. The warrant or electronic transfer shall be paid out of the funds appropriated for the administration of ORS 408.010 to 408.090. [Amended by 1983 c.740 §129; 2005 c.831 §3; 2007 c.857 §3]

408.070 Investigation of institutions; rules. (1) The Director of Veterans' Affairs shall investigate from time to time the institutions or other places where financial aid is being furnished to any beneficiary under ORS 408.010 to 408.090 to ascertain whether the spirit of ORS 408.010 to 408.090 is being complied with. If the director determines, after such investigation as the director deems necessary, that any such institution or place is not furnishing bona fide courses of instruction to the beneficiary or beneficiaries, or that any beneficiary is abusing the privileges granted by ORS 408.020, no money shall be paid to any beneficiary who is not receiving bona fide instruction or who is abusing such privileges. In making the investigations, the director may use the services of any state or county agency, and the agencies are required to render any such service requested by the director.

(2) The director may adopt rules necessary to carry out ORS 408.010 to 408.090. [Amended by 2007 c.71 §102]

408.080 [Amended by 1953 c.62 §2; 1957 c.91 §1; repealed by 1961 c.326 §8]

408.090 Handling of donations. (1) The Director of Veterans' Affairs, acting on behalf of the State of Oregon, is authorized to accept any donation, gift, grant, bequest or devise made in furtherance of the purposes of ORS 408.010 to 408.090, and if made in cash or its equivalent or reduced thereto, shall be promptly paid by the director to the State Treasurer, who shall credit the amount so received to the Veterans' Educational Aid Account in the General Fund. The director shall make such disposition of donations, gifts, grants, bequests or devises, not made in cash or its equivalent, as is specified by the donor thereof, and their earnings and proceeds shall inure to said account. All such donations, gifts, grants, bequests or devises accepted by the director are transfers exempt from taxes imposed on inheritances under the laws of this state.

(2) All moneys in the Veterans' Educational Aid Account are continuously appropriated to the director and may be used by the director for the purposes authorized in ORS 408.010 to 408.090. [Amended by 1961 c.326 §7; 1997 c.99 §53; 2005 c.755 §31]

408.095 Campus Veterans' Service Officers Program. (1) As used in this section, "community college" has the meaning given that term in ORS 341.005.

(2) There is created in the Department of Veterans' Affairs the Campus Veterans' Service Officers Program.

(3) The purpose of the program is to provide educational outreach to veterans to help ensure that they obtain maximum state and federal benefits.

(4) The department shall appoint a sufficient number of campus veterans' service officers to ensure that each Oregon community college and each public university in the Oregon University System, as described in ORS 352.002, is provided veterans' services.

(5) Each community college and public university in the Oregon University System shall provide office space that may be used for the provision of veterans' services.

(6) The department may adopt rules to implement the Campus Veterans' Service Officers Program. [2009 c.759 §1; 2011 c.637 §267]

Note: 408.095 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.100 [Repealed by 1961 c.326 §8]

408.110 [Repealed by 1961 c.326 §8]

ADVANTAGES GIVEN VETERANS IN PUBLIC EMPLOYMENT

408.210 [Renumbered 408.238 in 2005]

408.220 [Repealed by 1977 c.854 §5]

408.225 Definitions for ORS 408.225 to 408.237. (1) As used in ORS 408.225 to 408.237:

(a)(A) "Civil service position" means any position for which a hiring or promotion decision is made or required to be made based on the results of a merit based, competitive process that includes, but is not limited to, consideration of an applicant's or employee's relative ability, knowledge, experience and other skills.

(B) A "civil service position" need not be labeled a "civil service position."

(b) “Combat zone” means an area designated by the President of the United States by executive order in which, on the dates designated by executive order, the Armed Forces of the United States are or have engaged in combat.

(c) “Disabled veteran” means a person who has a disability rating from the United States Department of Veterans Affairs, a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty or a person who was awarded the Purple Heart for wounds received in combat.

(d) “Public employer” means a public body, as that term is defined in ORS 174.109, and any person authorized to act on behalf of the public body, with respect to control, management or supervision of any employee.

(e) “Veteran” means a person who:

(A) Served on active duty with the Armed Forces of the United States:

(i) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released under honorable conditions;

(ii) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;

(iii) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;

(iv) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or

(v) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;

(B) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or

(C) Is receiving a nonservice-connected pension from the United States Department of Veterans Affairs.

(2) As used in subsection (1)(e) of this section, “active duty” does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or a National Guard unit. [1977 c.854 §1; 1981 c.493 §1; 1989 c.507 §1; 1991 c.67 §98; 1993 c.18 §97; 1995 c.777 §1; 2005 c.99 §1; 2005 c.831 §7; 2007 c.71 §103; 2007 c.525 §1; 2009 c.41 §25; 2009 c.370 §1; 2011 c.29 §1]

408.230 Veterans’ preference in public employment. (1) A public employer shall grant a preference to a veteran or disabled veteran who applies for a vacant civil service position or seeks promotion to a civil service position with a higher maximum salary rate and who:

(a)(A) Successfully completes an initial application screening or an application examination for the position; or

(B) Successfully completes a civil service test the employer administers to establish eligibility for the position; and

(b) Meets the minimum qualifications and any special qualifications for the position.

(2) The employer shall grant the preference in the following manner:

(a) For an initial application screening used to develop a list of persons for interviews, the employer shall add five preference points to a veteran’s score and 10 preference points to a disabled veteran’s score.

(b) For an application examination, given after the initial application screening, that results in a score, the employer shall add preference points to the total combined examination score without allocating the points to any single feature or part of the examination. The employer shall add five preference points to a veteran’s score and 10 preference points to a disabled veteran’s score.

(c) For an application examination that consists of an interview, an evaluation of the veteran’s performance, experience or training, a supervisor’s rating or any other method of ranking an applicant that does not result in a score, the employer shall give a preference to the veteran or disabled veteran. An employer that uses an application examination of the type described in this paragraph shall devise and apply methods by which the employer gives special consideration in the employer’s hiring decision to veterans and disabled veterans.

(3) Preferences of the type described in subsection (1) of this section are not a requirement that the public employer appoint a veteran or disabled veteran to a civil service position.

(4) A public employer shall appoint an otherwise qualified veteran or disabled veteran to a vacant civil service position if the results of a veteran’s or disabled veteran’s application examination, when combined with the veteran’s or disabled veteran’s preference, are equal to or higher than the results of an application examination for an applicant who is not a veteran or disabled veteran.

(5) If a public employer does not appoint a veteran or disabled veteran to a vacant civil service position, upon written request of the veteran or disabled veteran, the employer, in writing, shall provide the employer’s reasons for the decision not to appoint the veteran or disabled veteran to the position. The employer may base a decision not to appoint the veteran or disabled veteran solely on the veteran’s or disabled veteran’s merits or qualifications with respect to the vacant civil service position.

(6) Violation of this section is an unlawful employment practice.

(7) A veteran or disabled veteran claiming to be aggrieved by a violation of this section may file a verified written complaint with the Commissioner of the Bureau of Labor and Industries in accordance with ORS 659A.820. [Amended by 1977 c.854 §3; 1989 c.507 §2; 1999 c.792 §1; 2007 c.525 §2; 2011 c.82 §1]

408.235 Eligibility for preference. A veteran is eligible to use the preference provided for in ORS 408.230 for a civil service position for which application is made at any time after discharge or release from service in the Armed Forces. [1977 c.854 §4; 1989 c.507 §3; 1995 c.777 §2; 1999 c.792 §2; 2007 c.525 §3; 2009 c.370 §2]

408.237 Interviews of veteran applicants for public service position required; exception. (1) As used in this section:

(a) “Eligibility list” means a list of ranked eligible candidates for a civil service position who have become eligible for the position through a test or series of tests and who will be considered for the civil service position in ranked order.

(b) “Transferable skill” means a skill that a veteran has obtained through military education or experience that substantially relates, directly or indirectly, to the civil service position for which the veteran is applying.

(2) When an interview is a component of the selection process for a civil service position or for an eligibility list for a civil service position, a public employer shall interview each veteran:

(a) Whom the public employer determines meets the minimum qualifications and special qualifications for the civil service position or eligibility list; and

(b) Who submits application materials that the public employer determines show sufficient evidence that the veteran has the transferable skills required and requested by the public employer for the civil service position or eligibility list.

(3) A public employer is not required to comply with subsection (2) of this section if the employer conducts interviews only as part of the process of selecting a candidate for a civil service position from an eligibility list.

(4) A public employer may consult with the Oregon Military Department and the Department of Veterans' Affairs to determine whether certain military education or experience produces a transferable skill.

(5) The Department of Veterans' Affairs shall provide training to veterans on how to show evidence of transferable skills in an application for a civil service position or eligibility list.

(6) Violation of subsection (2) of this section is an unlawful employment practice under ORS chapter 659A.

(7) A veteran claiming to be aggrieved by a violation of subsection (2) of this section may file a complaint under ORS 659A.820. [2011 c.484 §2]

408.238 "Military duty" defined for ORS 408.240 to 408.280. As used in ORS 408.240 to 408.280, "military duty" means training and service performed by an inductee, enlistee or reservist or any entrant into a temporary component of the Armed Forces of the United States, and authorized time spent reporting for and returning from such training or service, or, if a rejection occurs, from the place reported therefor; but does not include active duty training as a reservist in the Armed Forces of the United States or as a member of the National Guard of the United States where the call is for a period of 15 days or less. [Formerly 408.210]

408.240 Status and rights of public officer and employee during and after military duty. (1) Whenever any public officer or employee leaves a position, whether voluntarily or involuntarily, in order to perform military duty, such office or position may not become vacant, nor shall the officer or employee be subject to removal as a consequence thereof. Unless the officer or employee dies, resigns or is relieved or discharged from such duty under other than honorable conditions, during the term for which the officer or employee was elected, appointed or employed, such officer or employee shall be deemed absent on leave until release from such active service has permitted the officer or employee to resume the duties of the office or position. While so absent on leave, the officer or employee may not receive the pay or other emolument of such office or position, nor become liable, as such officer or employee, on an official bond or otherwise, for the acts or omissions of any other person.

(2) Subsection (1) of this section does not apply unless the officer or employee, upon the termination of such military duty, is qualified to perform the duties of such position, and makes application within 90 days after the officer or employee is relieved from such military duty, or from hospitalization continuing after discharge for a period of not more than one year. If the officer or employee is not qualified to perform the duties of such position by reason of such service, but is qualified to perform the duties of any other public position, the officer or employee shall be restored to such other position, the duties of which the officer or employee is qualified to perform, as will provide the officer or employee like seniority, status and pay, or the nearest approximation thereof, consistent with the circumstances in the case.

(3) Except as otherwise provided in this subsection, subsection (1) of this section does not apply if the total of such military duty exceeds five years. Subsection (1) of this section is applicable with regard to military duty that exceeds five years if the period of additional duty was imposed by law or resulted from inability of the officer or employee to obtain orders relieving the officer or employee from active duty.

(4) Notwithstanding subsection (1) of this section:

(a) The State of Oregon shall continue coverage under an employer-sponsored health plan to a public officer or employee of the State of Oregon and any other individual provided coverage under the officer's or employee's plan on the day before the date the officer or employee goes on leave for a period not exceeding a total of 24 months while the public officer or employee is absent on leave.

(b) An employer other than the State of Oregon may provide coverage under an employer-sponsored health plan to an officer or employee and any other individual provided coverage under the officer's or employee's plan on the day before the date the officer or employee goes on leave for the period during which the officer or employee is absent on leave.

(5)(a) Notwithstanding subsection (1) of this section, the State of Oregon, a county, a municipality or other political subdivision of the state may establish and administer a donated leave program that:

(A) Allows an officer or employee who is absent on leave to receive donated leave; and

(B) Allows an officer or employee to voluntarily donate vacation time to an eligible officer or employee who is absent on leave.

(b) An officer or employee who is absent on leave and who receives donated leave under paragraph (a) of this subsection may receive an amount of donated leave that supplements any compensation received for performing military duty, but may not receive more than the amount of base salary the officer or employee was earning on the date the officer or employee began the leave of absence.

(c) This subsection does not apply to a leave of absence under ORS 408.290. [Amended by 1979 c.468 §13; 2003 c.72 §1; 2003 c.387 §14; 2005 c.38 §3]

408.242 Public employees in Active Guard Reserve Program. ORS 408.240 (4)(a) does not apply to a public employee who leaves a position under ORS 408.240 (1) to enter or reenter the Active Guard Reserve Program under 32 U.S.C. 502(f). [2005 c.38 §1]

Note: 408.242 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.250 Rights and duties of person replacing public officer in military service. During the period any public officer is absent on leave pursuant to ORS 408.240, a substitute shall serve in the place and stead of the public officer. Such substitute shall be appointed by the authority having power to have appointed the substitute as successor had such office become vacant. The substitute shall qualify by taking an oath of office, and by giving bond in an amount and conditioned as required by law for the officer for whom the substitute has been appointed, or, in the event no bond is required by law, then as the appointing authority directs. The substitute shall be designated by the title of the office, followed by the words "pro tem." The substitute shall be invested with the authority, duties and responsibilities, and shall receive the emoluments of the office, in lieu of the officer for whom the person is the substitute.

408.260 Termination of term of office of substitute for officer in military service. When the absence on leave of a public officer, granted by ORS 408.240, has terminated, or a successor has been duly appointed and qualified to fill the vacancy created by the death or resignation of such officer, the appointment of the substitute shall terminate, and the substitute immediately shall deliver to such officer or successor all records and other incidents of the office, together with a full and detailed statement of accounting covering the entire period of service as substitute.

408.270 Restoration of employee's seniority and tenure. Upon the termination of any leave granted by ORS 408.240, every public employee shall be restored to the position without loss of seniority or other benefits. It is the intention of the Legislative Assembly that such employee shall be restored in such manner as to give the employee the status in employment that the employee would have enjoyed if the employee had continued in such employment continuously from the time of entering the Armed Forces until the time of restoration to such employment. Any person so restored to the position shall not be discharged from such position without cause within one year after such restoration. Any employee who has not completed the probationary period in the position at the time of leaving for military duty, shall, upon returning to such position, be required to serve the remainder of such probationary period, notwithstanding the granting of continuous time credit for time served in the Armed Forces.

408.280 Reelection of public officer while in military service. Whenever the term of office of an elected public officer expires during military service in the Armed Forces of the United States for which a leave of absence has been granted pursuant to ORS 408.240 and the officer is reelected to such office, the officer shall continue in such office and on such leave of absence. The pro tem officer acting in the place and stead shall continue to act in said capacity during the continuation of such leave of absence of such public officer. Whenever the leave of absence of the reelected public officer has terminated, and the reelected public officer has qualified for the resumption of the duties of said office as required by law, and has conformed to the requirements of ORS 408.240, the appointment of the substitute of the reelected officer shall terminate in the same manner as provided in ORS 408.260.

408.290 Benefits for public employees on temporary active duty in Armed Forces. (1) Except as provided in subsection (2) of this section, for initial active duty for training and for all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, any officer or employee of the state, or of any county, municipality or other subdivision of the state, is entitled, upon application therefor, to a leave of absence from duties for a period not exceeding 15 days in any one training year, without loss of time, pay or regular leave and without impairment of efficiency rating or other rights or benefits to which the officer or employee is entitled.

(2) Unless the officer or employee has been employed by the state or by any county, municipality or other political subdivision of the state for a period of six months next preceding application, no officer or employee is entitled to receive pay for any period during which the officer or employee is on military leave.

(3) As used in this section, "training year" means the federal fiscal year for any particular unit of the National Guard or a reserve component. [Amended by 1955 c.104 §1; 1969 c.368 §1; 1993 c.197 §1; 2011 c.18 §2]

STATE AID TO VETERANS FOR MEDICAL ISSUES

(Herbicide Exposure)

408.300 Short title. ORS 408.305 to 408.340 shall be known and may be cited as the Oregon Vietnam Veteran Benefits Act of 1983. [1983 c.658 §1]

408.305 Definitions for ORS 408.305 to 408.340. As used in ORS 408.305 to 408.340, unless the context requires otherwise:

(1) "Agent Blue" means the herbicide composed primarily of cacodylic acid (organic arsenic) and inorganic arsenic.

(2) "Agent Orange" means the herbicide composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.

(3) "Agent White" means any herbicide composed primarily of 2, 4, D and picloram.

(4) "Causative agent" includes Agent Blue, Agent Orange, Agent White and any other combination of chemicals consisting primarily of 2, 4, D or 2, 4, 5, T or any other chemical or biological agent used by any government involved in the Vietnam Conflict, or diseases endemic to Southeast Asia, including, but not limited to, the disease known as melioidosis.

(5) "Veteran" means any individual who resides in this state, who served on active duty in the Armed Forces of the United States for a period of not less than 180 days any part of which occurred between January 1, 1962, and May 7, 1975, within the borders of Vietnam, Cambodia, Laos or Thailand, and who was either a resident of this state at the time of enlistment, induction or other entry into the Armed Forces or became a bona fide resident of Oregon prior to April 1, 1981. [1983 c.658 §2; 1985 c.574 §1; 2009 c.595 §233]

408.310 Duty of physician to report symptoms attributable to herbicide exposure; consent of patient; report form; additional information. (1) A physician who has primary responsibility for the treatment of a veteran who may have been exposed to causative agents while serving in the Armed Forces of the United States or for the treatment of a veteran's spouse, surviving spouse or minor child

who may be exhibiting symptoms or conditions that may be attributable to the veteran's exposure to causative agents shall, at the request and direction of the veteran, veteran's spouse or surviving spouse or the parent or guardian of such minor child, submit a report to the Oregon Health Authority. The report shall be made on a form adopted by the authority and made available to physicians and hospitals in this state.

(2) If there is no physician having primary responsibility for the treatment of a veteran, veteran's spouse, surviving spouse or minor child, then the senior medical supervisor of the hospital or clinic treating the veteran, veteran's spouse, surviving spouse or minor child shall submit the report described in this section to the authority at the request and direction of the veteran, veteran's spouse or surviving spouse or the parent or legal guardian of a veteran's minor child.

(3) The form adopted by the authority under this section shall list the symptoms commonly attributed to exposure to causative agents, and shall require the following information:

(a) Symptoms of the patient which may be related to exposure to causative agents.

(b) A diagnosis of the patient's condition.

(c) Methods of treatment prescribed.

(d) Any other information required by the authority.

(4) The authority, after receiving a report from a physician, hospital or clinic under this section, may require the veteran, veteran's spouse, surviving spouse or minor child to provide such other information as may be required by the authority. [1983 c.658 §3; 2009 c.595 §234]

408.315 Application of ORS 408.310. (1) ORS 408.310 applies to all veterans, spouses, surviving spouses and minor children of veterans treated by a physician, hospital or clinic after January 1, 1982. Physicians, hospitals or clinics shall submit the reports and study required under ORS 408.310 for veterans, spouses, surviving spouses and minor children of veterans treated prior to that date when requested and directed to do so by such individuals.

(2) ORS 408.300 to 408.340 apply to all physicians, hospitals and clinics, whether public or private, within the State of Oregon. [1983 c.658 §8]

408.320 Duties of Oregon Public Health Advisory Board. The Oregon Public Health Advisory Board created under ORS 431.195 shall:

(1) Order the compilation of statistical data from information obtained under ORS 408.310 and determine the use and dissemination of that data.

(2) Make recommendations to the Director of the Oregon Health Authority or the Director of Veterans' Affairs concerning the implementation and operation of programs authorized by ORS 408.300 to 408.340.

(3) Assess programs of federal agencies operating for the benefit of veterans exposed to causative agents and their families, and make recommendations to the appropriate agencies for the improvement of those programs.

(4) Suspend or terminate specific programs or duties required under ORS 408.300 to 408.340 when necessary to prevent duplication of those programs or duties by other governmental agencies.

(5) Apply for, receive and accept any grants or contributions available from the United States or any of its agencies for the purpose of carrying out ORS 408.300 to 408.340.

(6) When the advisory board considers it necessary for the health and welfare of veterans and the spouses, surviving spouses and minor children of veterans, ask the Attorney General to initiate proceedings as provided under ORS 408.335.

(7) Report biennially to the Legislative Assembly or to the Emergency Board, as appropriate, as necessary to accomplish the objectives of ORS 408.300 to 408.340 concerning the programs instituted under ORS 408.300 to 408.340. [1983 c.658 §5; 2009 c.595 §235]

408.325 Referral program for affected veterans; rules. (1) The Oregon Health Authority and the Oregon Public Health Advisory Board shall institute a cooperative program to refer veterans to appropriate state and federal agencies for the purpose of filing claims to remedy medical and financial problems caused by exposure to causative agents.

(2) The Director of the Oregon Health Authority, after receiving the recommendations of the advisory board, shall adopt rules to provide for the administration and operation of programs authorized by ORS 408.300 to 408.340. The director shall cooperate with appropriate state and federal agencies in providing services under ORS 408.300 to 408.340. [1983 c.658 §7; 2009 c.595 §236]

408.330 Suspension or termination of programs; conditions. If the Oregon Public Health Advisory Board determines that any federal agency is adequately performing the referral functions described in ORS 408.325, the advisory board may suspend or terminate any program or duty required under ORS 408.300 to 408.340 in order to avoid duplication of services. [1983 c.658 §9]

408.335 Attorney General to represent veterans in certain proceedings; payment of expenses. (1) When requested to do so by the Director of Veterans' Affairs, the Attorney General shall represent, on behalf of all of the members of the class, one or more members of the class of veterans, spouses and surviving spouses of veterans and minor children of veterans who allege injuries caused by exposure to or contact with causative agents, and appear for them in any court or before any administrative agency in any proceeding to compel release of individual medical records, United States Department of Veterans Affairs medical and claim files or any other information relating to causative agents during military service.

(2) When requested to do so by the Director of Veterans' Affairs, the Attorney General shall represent, on behalf of all of the members of the class of veterans, one or more veterans in any proceeding to compel the United States Department of Veterans Affairs to comply with the requirements of the Veterans' Health Care, Training, and Small Business Loan Act of 1981, P.L. 97-72 (38 U.S.C. 610 et seq.) or any other public law, regulation or administrative directive and to release any records or reports prepared under that Act relating to exposure to dioxin or other toxic substances found in a herbicide or defoliant used for military purposes.

(3) The expenses incurred by the Attorney General under this section shall be paid from the General Fund.

(4) The Attorney General shall seek a judgment ordering the payment of all expenses incurred by the Attorney General from the agency against which the action was brought. [1983 c.658 §6; 1985 c.574 §2; 1991 c.67 §99]

408.340 Limitation of liability. (1) A physician, hospital or clinic subject to ORS 408.300 to 408.340 shall not be subject to any criminal or civil liability for providing information required under ORS 408.300 to 408.340.

(2) Nothing in this section shall prevent, however, any action for negligence by a physician, hospital or clinic in choosing or providing medical treatment. [1983 c.658 §4]

(Hepatitis C)

408.350 Educational materials about hepatitis C. (1) As used in this section, "veteran" means a person who is:

(a) A resident of Oregon; and

(b) A veteran as defined in ORS 408.225.

(2) The Department of Veterans' Affairs shall provide, in written or electronic format, educational materials on the diagnosis, treatment and prevention of hepatitis C in veterans who are at high risk of contracting the disease.

(3) The department shall make the materials available to all veterans and health care providers.

(4) The materials shall include:

(a) The recommendations of the Centers for Disease Control and Prevention and the American Liver Foundation relating to the diagnosis, treatment and prevention of hepatitis C; and

(b) Information from other groups that the department believes present reliable information concerning the increased risk to veterans of contracting hepatitis C. [2007 c.381 §1; 2009 c.41 §20]

Note: 408.350 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

OREGON VETERANS' HOMES

408.360 Oregon Veterans' Home; authority of Department of Veterans' Affairs; issuance of certificates of participation. (1) Subject to approval by the Director of the Oregon Department of Administrative Services as provided in section 3, chapter 795, Oregon Laws 1993, the Department of Veterans' Affairs is authorized to issue certificates of participation for the purposes of constructing an Oregon Veterans' Home.

(2) When issuance of the certificates of participation is approved by the Director of the Oregon Department of Administrative Services, the Department of Veterans' Affairs may issue the certificates of participation, but not earlier than the 120th day after September 8, 1993.

(3) The Department of Veterans' Affairs shall expend the proceeds from the sale of the certificates of participation for construction of an Oregon Veterans' Home and shall take any other action considered by the department to be necessary or appropriate for the construction and operation of an Oregon Veterans' Home. [1993 c.795 §2; 2005 c.625 §55]

Note: 408.360 to 408.385 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.365 Use of state moneys for operation of Oregon Veterans' Home. Moneys to pay for the expenses of operating the Oregon Veterans' Home may be appropriated from:

(1) The General Fund;

(2) The Oregon War Veterans' Fund pursuant to section 1 (1)(e) of Article XI-A of the Oregon Constitution; and

(3) Moneys donated to the trust fund established under ORS 406.050 for the purpose of paying for the expenses of operating the Oregon Veterans' Home, or moneys in the trust fund that the Department of Veterans' Affairs determines may be expended for those purposes. [1993 c.795 §7; 2001 c.102 §2; 2001 c.104 §141; 2003 c.302 §1; 2009 c.602 §5]

Note: See note under 408.360.

408.368 Oregon Veterans' Home Account. (1) There is created in the State Treasury, separate and distinct from the General Fund, the Oregon Veterans' Home Account. Moneys credited to the account are appropriated continuously to the Director of Veterans' Affairs to pay expenses that the director determines are appropriate for developing, operating and maintaining each Oregon Veterans' Home including, but not limited to, providing care and services to the residents of each home and the costs of administration incurred by the director.

(2) The account shall consist of moneys received by the director that relate to the development, operation or maintenance of each Oregon Veterans' Home, including but not limited to residents' fees and charges, per diem payments received from the United States Department of Veterans Affairs, Medicare payments and moneys received under ORS 292.057. The director may transfer moneys to the account from the Oregon War Veterans' Fund and from other funds and accounts administered by the director.

(3) Earnings on moneys in the account shall be credited to the account.

(4) Disbursements from the account may be made by the director for the purposes set forth in subsection (1) of this section. The director may also transfer moneys from the account to the Oregon War Veterans' Fund. [1999 c.51 §1; 2007 c.208 §2]

Note: See note under 408.360.

408.370 Application of other statutes. (1) In addition to the other uses for the Oregon Housing Fund set forth in ORS 458.600 to 458.665, financial support for an Oregon Veterans' Home is a permitted use of moneys from the Oregon Housing Fund.

(2) Notwithstanding ORS 442.315, 442.325 and 442.584, an Oregon Veterans' Home is not subject to any certificate of need requirement. [1993 c.795 §§1,4; 2011 c.657 §2; 2011 c.720 §78]

Note: 442.584 was repealed by section 228, chapter 720, Oregon Laws 2011. The text of 408.370 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 408.370 for the repeal of 442.584 has not been made.

Note: See note under 408.360.

408.375 Second Oregon Veterans' Home; contract for operation and management. The Director of Veterans' Affairs shall enter into a contract with a nongovernmental entity for the operation and management of the second Oregon Veterans' Home authorized by section 1, chapter 591, Oregon Laws 1995. The entity with whom the director contracts under this section shall be a person experienced in the operation and staffing of long term care facilities, as defined in ORS 442.015. The contract executed under this section shall be subject to the requirements of ORS chapters 279A and 279B, except ORS 279A.140 and 279B.235, and shall provide that:

(1) The party who contracts to manage and operate the second Oregon Veterans' Home shall be responsible for hiring and maintaining the necessary staff for the facility.

(2) The Director of Veterans' Affairs shall assign a sufficient number of state employees, in the discretion of the director, to provide oversight of the management of the facility.

(3) The second Oregon Veterans' Home may admit only patients who are veterans, as defined in ORS 408.225, the spouses of veterans and other patients who are eligible for admittance under federal law. [1995 c.591 §4; 2003 c.794 §274; 2007 c.668 §1; 2011 c.414 §1]

Note: See note under 408.360.

408.380 Application of other statutes to second Oregon Veterans' Home. (1) The Oregon Veterans' Home authorized by section 1, chapter 591, Oregon Laws 1995, is subject to all state laws and administrative rules and all federal laws and administrative regulations to which long term care facilities operated by nongovernmental entities are subject, except for the requirement to obtain a certificate of need under ORS 442.315 from the Oregon Health Authority.

(2) As used in this section, "long term care facility" has the meaning given that term in ORS 442.015. [1995 c.591 §6; 2005 c.22 §270; 2007 c.668 §2; 2009 c.595 §237]

Note: See note under 408.360.

408.385 Third Oregon Veterans' Home; planning for and development of fourth Oregon Veterans' Home. (1) The Director of Veterans' Affairs shall establish a third Oregon Veterans' Home in Roseburg, in addition to the two facilities authorized by law on July 17, 1995.

(2) The director may seek federal grant funds from the United States Department of Veterans Affairs for the purpose of establishing the third Oregon Veterans' Home in Roseburg.

(3) If the director determines that three facilities will not be sufficient to provide for the needs of the veterans of Oregon, the director may begin planning for and developing one additional Oregon Veterans' Home. [1995 c.591 §5; 2011 c.296 §1; 2011 c.657 §1a]

Note: See note under 408.360.

408.390 City acquisition of land for Oregon Veterans' Home. When such power is conferred or contained in their charters or Acts of incorporation, incorporated cities may purchase, receive, take and acquire by eminent domain, or otherwise, and within or without corporate limits, land and necessary or convenient means of access thereto by roads, ways, streets, railroad spurs, bridges, or the like, and sell or donate the same to the Director of Veterans' Affairs for the construction thereon of an Oregon Veterans' Home. Such acquisition and donation shall be deemed for the general use and benefit of the inhabitants of any city exercising the powers granted by this section and for the general use and benefit of the veterans of the State of Oregon. For the purpose of exercising the power of eminent domain under this section and ORS 408.395 or under the provision in any municipal charter based upon this section, such taking or acquisition shall be deemed to be for a public and municipal use. [Formerly 408.510]

408.393 Incurring city indebtedness for Oregon Veterans' Home. In connection with the exercise of the powers granted by ORS 408.390, such incorporated cities may incur such indebtedness and issue such bonds, warrants or other evidences of debt as their respective charters may authorize. [Formerly 408.520]

408.395 Condemnation of property for Oregon Veterans' Home. For the purpose of exercising the powers conferred by ORS 408.390, any incorporated city may bring and maintain any suit or action for the appropriation, condemnation or taking of real property within or without its corporate limits, in fee simple or otherwise, including riparian rights, rights of way and other easements. The city may proceed to have such property appropriated and the compensation therefor determined and paid, in the manner provided by law for exercising of the power of eminent domain by municipal corporations. [Formerly 408.530]

Note: Sections 2 and 3, chapter 296, Oregon Laws 2011, provide:

Sec. 2. (1) The Department of Veterans' Affairs shall enter into a contract to conduct a statewide study to determine the number of

skilled nursing beds needed to meet the current and future needs of veterans for skilled nursing care. The study shall determine, for the 20 years after the date the study is commenced:

(a) The number of veterans needing skilled nursing care, including veterans needing skilled nursing care because of Alzheimer's disease or other forms of dementia;

(b) Regional catchment areas for provision of services to veterans and the number of veterans within each catchment area who may need skilled nursing care; and

(c) The number of veterans needing skilled nursing care whose care could be provided through community care.

(2) The department shall report on the study to the Legislative Assembly in the manner provided in ORS 192.245 on or before May 31, 2015. [2011 c.296 §2]

Sec. 3. Section 2 of this 2011 Act is repealed on January 2, 2016. [2011 c.296 §3]

COUNTY AID TO VETERANS

408.410 Appointment of county service officer; duties; annual budget requirement. (1) The county governing body in each county may appoint a service officer who shall give aid and assistance to any veteran, the spouse or dependents of the veteran or the survivors of the veteran, in applying for all benefits and aid to which they are entitled by federal, state or local laws, rules and regulations. The county governing body shall fix the compensation of the service officer, provide the service officer with an office and the necessary equipment therefor in the same manner as provided for any other county officer. If a county governing body appoints a service officer, the governing body shall also provide in the annual budget for expenditure of moneys sufficient to enable the county to employ the service officer, to properly maintain the office provided for the service officer and to pay the costs incurred by the service officer in providing assistance to veterans, spouses and dependents of veterans or survivors of veterans. The annual expenditures required by this section shall be made from the county funds referred to in ORS 408.720.

(2) As used in this section:

(a) "Survivor of a veteran" means the spouse or a dependent of a deceased veteran.

(b) "Veteran" has the meaning given that term in ORS 408.225. [Amended by 1995 c.557 §1; 2007 c.357 §6; 2009 c.41 §13]

408.420 Recording discharge papers. Each county clerk shall maintain in the office a special book in which the county clerk shall, upon request, record the final discharge of any veteran. A recording fee may not be collected when the veteran requesting the record is an actual resident of the county or was a resident at the time of entrance into the service of the United States. In all other cases a legal fee shall be charged. There shall be kept in connection with the record an alphabetical index referring to the name of the veteran whose name appears in each discharge paper so recorded. Books that are necessary for the recording of the discharge papers shall be paid for by the several counties in the manner provided for paying other claims against the county. [Amended by 2009 c.500 §§2,2a]

408.425 Inspection of discharge papers. (1) Each county clerk who receives a request to inspect veteran discharge papers that are recorded under ORS 408.420 shall produce the recorded discharge papers for inspection if:

(a) The request for inspection is made in writing;

(b) The request sets forth the name, address and telephone number of the requester;

(c) The request sets forth the name and the date of birth or the last four digits of the Social Security number of the veteran; and

(d) The request is made by:

(A) The veteran or the spouse, legal guardian or personal representative of the veteran;

(B) A county veterans' service officer appointed under ORS 408.410;

(C) A representative of the Department of Veterans' Affairs; or

(D) A licensed funeral establishment seeking to ascertain if a decedent was a veteran for the purpose of obtaining veteran's burial benefits.

(2) This section does not create a cause of action and may not be asserted as the basis of a per se negligence claim.

(3) Each county clerk may adopt additional policies in order to protect recorded discharge papers from malicious or unlawful use and policies regarding copying of recorded discharge papers.

(4) Each county clerk shall maintain in the records of the county clerk a copy of each request for inspection of recorded discharge information for a period of at least 10 years after the date the request is received by the county clerk. [2009 c.500 §3; 2009 c.500 §3a]

Note: 408.425 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.430 Free services to veterans rendered by court administrator or county clerk. The county clerk or a court clerk or court administrator shall administer all oaths required in matters of pensions, certify pension vouchers, affix the seal of the court whenever required, and make and prepare copies of any documents of record in the office and certify thereto any matter required by veterans seeking benefits from any agency or department of the State of Oregon or federal government, without any charge, fee or compensation. [Amended by 1993 c.223 §9]

MISCELLANEOUS VETERANS' BENEFITS

408.440 Land of enlisted person exempt from foreclosure and judicial sale during war. No suit or action shall be commenced or maintained, during the period provided for in this section, to foreclose any mortgage upon real property, or to collect the debt secured thereby, if the land covered by the mortgage is owned, wholly or in part, by an enlisted person in the Army or Navy of the United States, who enlisted therein in the volunteer forces or who enlisted in the National Guard of the United States and of the State of Oregon and

the organization of the enlisted person was called into the service of the United States. The lands of any such soldier or sailor shall be exempt from judicial sale for the satisfaction of any judgment during the period provided for in this section. This moratorium shall extend only during the period of actual service in the army or navy forces of the United States, and in no case shall begin prior to the day on which the Congress of the United States declares war, nor continue after 60 days subsequent to the conclusion of such war. All statutes of limitation in effect in this state shall be suspended during the period described in this section, as to such mortgages, debts and judgments.

408.450 Duty to pay fees during military duty. No person in the military or naval service of the United States, or any auxiliary corps thereof, while exercising any privilege in this state by virtue of having paid an annual license or privilege fee to any state board or commission for the right to practice a profession or engage in a trade, shall lose such privilege because of failure to pay any such fee for any subsequent year during the period the person is in such service, unless dishonorably discharged therefrom. Upon being discharged from such service under honorable conditions and upon written application within 60 days of such discharge, every such person shall be restored to former status with respect to any such privilege without the necessity of paying the then current license fee.

408.460 Certain claims payable out of General Fund. Lawful claims payable from the Memorial Fund, 116th Engineers, or the fund entitled Unclaimed Back Pay Due Second Oregon Volunteers, shall be paid, upon approval of the Adjutant General, from the General Fund.

408.470 Persons entitled to interment in Spanish War Veterans' plot. All honorably discharged soldiers, sailors and marines who served in the forces of the United States during the Spanish War or Philippine Insurrection at any time between April 23, 1898, and July 4, 1902, who are now deceased or may hereafter die in Oregon or who being residents of Oregon die outside of Oregon, may be interred in the burial plot established pursuant to sections 1 to 3, chapter 72, Oregon Laws 1911.

408.480 Care of veterans ineligible for federal home. In case of the establishment of a national soldiers' home or branch thereof at or near Roseburg, Douglas County, Oregon, and any persons lawfully entitled prior to February 26, 1931, to be cared for in the Oregon State Soldiers' Home formerly located at that location and not to be cared for in said national soldiers' home or branch thereof, then the Department of Human Services shall have authority to enter into contract with the United States Government for the care of such persons in such home.

408.485 Findings related to health care. The Legislative Assembly finds that:

(1) The United States Department of Veterans Affairs Veterans Health Administration should be encouraged to export its expertise in military sexual trauma, post-traumatic stress disorder and other conditions associated with military service to health care providers outside of the administration; and

(2) Health care providers outside of the administration should be encouraged to seek out continuing education in military sexual trauma, post-traumatic stress disorder and other conditions associated with military service. [2011 c.81 §1]

Note: 408.485 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.490 Purchase of United States flags for placement on veterans' graves. The county court or board of county commissioners of each county is authorized annually to budget and pay such amount of money as it may deem reasonable for the purpose of purchasing flags of the United States for placement, by any nationally chartered organization or organizations of war veterans, annually on or prior to Memorial Day, upon the graves of deceased war veterans of the United States who are interred within the county. [1953 c.355 §1]

408.500 Oregon Veterans' Emergency Financial Assistance Program; rules. (1) The Oregon Veterans' Emergency Financial Assistance Program is created.

(2) The purpose of the program is to provide emergency financial assistance to Oregon veterans and their immediate families for needs that include but are not limited to:

(a) Emergency or temporary housing and related housing expenses, such as expenses for utilities, insurance, house repairs, rent assistance or food;

(b) Emergency medical or dental expenses;

(c) Emergency transportation;

(d) Expenses related to starting a business, such as business licenses or occupational licenses;

(e) Temporary income after military discharge; and

(f) Legal assistance.

(3) The Department of Veterans' Affairs shall administer the program created under subsection (1) of this section and shall adopt rules implementing the program, including but not limited to establishing procedures for applying for emergency financial assistance and criteria for determining eligibility to receive emergency financial assistance.

(4) As used in this section:

(a) "Immediate family" means a spouse, unremarried surviving spouse, child or stepchild.

(b) "Veteran" means:

(A) A veteran as defined in ORS 408.225;

(B) A person who is a member of the Oregon National Guard who has been demobilized after serving on federal active duty for more than 30 days; or

(C) A person who is an Oregon resident, is a member of the Reserves and has been demobilized after serving on federal active duty

for more than 30 days. [2005 c.831 §6; 2007 c.42 §1]

Note: 408.500 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

INFORMATION AND REINTEGRATION SERVICES FOR VETERANS

408.503 Department website relating to benefits; reports to Legislative Assembly. (1) The Department of Veterans' Affairs shall establish a website that allows members of the public to request information about veterans' benefits and services and enter contact information.

(2) The department shall coordinate outreach to individuals who request information through the website established under subsection (1) of this section or in any other manner.

(3) On or before October 1 of each even-numbered year, the department shall report to the appropriate interim committees of the Legislative Assembly on the department's outreach to veterans. [2009 c.851 §1]

Note: 408.503 to 408.505 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.504 Link on agency websites. An agency, as defined in ORS 183.310, shall include on the agency's website a link to the website established by the Department of Veterans' Affairs under ORS 408.503. [2009 c.851 §2]

Note: See note under 408.503.

408.505 Agencies to make available and provide information to veterans; report to legislature. (1) As used in this section, "agency" has the meaning given that term in ORS 183.310.

(2) In order to assist veterans in claiming federal benefits, the Department of Veterans' Affairs and the Oregon Military Department shall provide agencies with materials to inform individuals how to contact the Department of Veterans' Affairs and the reintegration team within the Oregon Military Department to request information about veterans' benefits and services.

(3) An agency shall:

(a) Make available in offices that are accessible to the public the information provided under subsection (2) of this section; and

(b) When appropriate, feasible and consistent with the agency's mission, make reasonable efforts to:

(A) Ask a customer or client who comes into contact with the agency if the customer or client is a veteran; and

(B) Provide the information provided under subsection (2) of this section to a customer or client who states that the customer or client is a veteran.

(4) An agency may cooperate with elected officials, local governments, school districts and community colleges to implement other measures to direct customers or clients to the Department of Veterans' Affairs or the reintegration team within the Oregon Military Department to obtain information about veterans' benefits and services.

(5) On or before October 1 of each even-numbered year, agency directors shall report to the appropriate interim committees of the Legislative Assembly on the effectiveness of measures undertaken to implement the provisions of this section.

(6) This section does not require an agency to respond to inquiries from customers or clients about veterans' benefits or services. [2009 c.851 §3; 2011 c.41 §1]

Note: See note under 408.503.

408.506 Agencies to partner with Oregon Military Department to provide reintegration services. The Department of Human Services, the Department of Transportation, the Housing and Community Services Department, the Employment Department, the Department of Justice, the Judicial Department, the Oregon University System, the Bureau of Labor and Industries, the Department of Community Colleges and Workforce Development and the Department of Veterans' Affairs shall partner with the Oregon Military Department to provide reintegration services for veterans throughout this state through regional strategies. [2011 c.19 §1]

Note: 408.506 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.507 Information to be provided by establishments operated to provide food to needy persons. (1) The Department of Veterans' Affairs and the Oregon Military Department shall make available to establishments operated to provide food to indigent or needy persons information on how to contact the Department of Veterans' Affairs and the reintegration team within the Oregon Military Department to request information about veterans' benefits and services.

(2) An establishment operated to provide food to indigent or needy persons that receives public funds shall:

(a) Make available to indigent or needy persons served the information provided under subsection (1) of this section; and

(b) When appropriate, feasible and consistent with the establishment's mission, make reasonable efforts to:

(A) Ask a person who is provided food if the person is a veteran; and

(B) Provide the information provided under subsection (1) of this section to a person who is provided food and states that the person is a veteran. [2011 c.41 §3]

Note: 408.507 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 408 or any

series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

408.510 [Amended by 1993 c.795 §8; renumbered 408.390 in 1999]

408.520 [Renumbered 408.393 in 1999]

408.530 [Renumbered 408.395 in 1999]

USE OF PUBLIC FACILITIES BY VETERANS' ORGANIZATIONS

408.540 Use of buildings by veterans' organizations. All buildings acquired or constructed by county courts pursuant to chapter 595, Oregon Laws 1947, shall be made available for the use of any veterans' organizations and their auxiliaries located in the city, town or community where any such building is located.

408.550 [Repealed by 1961 c.454 §213]

408.560 Use of public buildings for meetings of veterans' and auxiliary organizations. In counties where there is no armory belonging to or under control of state authority, the county courts or boards of county commissioners, upon written application of the commander or president of any organized unit of war veterans or its auxiliary, shall allow its unit organized in such county, free of cost, to occupy a portion of the courthouse or any other public building, when such occupancy does not materially interfere with occupancy of the building for the original purposes for which it was intended. [Amended by 1961 c.454 §210]

VETERANS WITH MENTAL ILLNESS

408.570 Commitment of veterans with mental illness to federal veterans facility. When a veteran who has been adjudged mentally ill is eligible for treatment in a United States veterans facility and commitment is necessary for the proper care and treatment of such veteran, the Oregon Health Authority or community mental health program director, as provided under ORS 426.060, may, upon receipt of a certificate of eligibility from the United States Department of Veterans Affairs, assign the person to the United States Department of Veterans Affairs for care, custody and treatment in a United States veterans facility. Upon admission to any such facility, the veteran shall be subject to the rules and regulations of the United States Department of Veterans Affairs and provisions of ORS 426.060 to 426.395 and related rules and regulations of the Oregon Health Authority. The chief officer of such facility shall be vested with the same powers exercised by superintendents of state hospitals for persons with mental illness within this state with reference to the retention, transfer, trial visit or discharge of the veteran so assigned. The commitment of a veteran to a veterans facility within this state by a court of another state under a similar provision of law has the same force and effect as if the veteran was committed to a veterans facility within that other state. [Amended by 1975 c.690 §26; 1991 c.67 §100; 2007 c.70 §160; 2009 c.595 §238]

408.580 Transfer of veterans with mental illness from state to federal hospitals. Upon receipt of a certificate of eligibility and available facilities, the Oregon Health Authority may cause to be transferred any veteran from any facility to which the veteran has been assigned to a United States veterans facility. No veteran under sentence by any court, or committed by any court after having been charged with any crime and acquitted on the ground of mental disease or defect, may be transferred without an order of such court authorizing the transfer. Whenever any veteran, not a convict, has been committed by order of a court and is transferred as provided in this section, the order of commitment shall be held to apply to the facility to which the veteran is transferred as to any other facility to which the veteran could be assigned or transferred under ORS 426.060. [Amended by 1975 c.690 §27; 2009 c.595 §239]

408.590 [Repealed by 1963 c.540 §8]

BENEFITS TO INDIGENT VETERANS

408.710 Indigent veteran defined; effect of property ownership. (1) As used in ORS 408.710 to 408.750, "indigent veteran" means any veteran who is without means of procuring the necessities of life.

(2) A person may not be deprived of the benefits provided for in ORS 408.720 to 408.750 by reason of the fact that the person owns property that is not of such a character that it may be used to give assistance to the person, or owns a home that is not disproportionate to the needs of such veteran and family. A person may not be deprived of such benefits until the person has ceased to be domiciled in the county for a period of one year. [Amended by 2009 c.41 §15]

408.720 Tax levy to finance activities of veterans' service officer; use of proceeds; use of county general funds. (1) Except as provided in subsection (3) of this section, in addition to the taxes now authorized to be levied by law, a county governing body may levy in each year a tax not exceeding one-eightieth of one percent (0.000125) of the real market value of all taxable property within the county, computed in accordance with ORS 308.207. The tax shall be levied and collected in the same manner as other county taxes and is subject to the limits set forth in ORS 310.150.

(2) The taxes collected shall be set apart in the county treasury as a special fund for the purpose of financing the employment and the activities of the service officer appointed under ORS 408.410. If an unobligated balance remains in the special fund at the end of a fiscal year, the unobligated balance may be carried forward to the next fiscal year and expended for the purposes described in this subsection.

(3) A county governing body need not levy the tax authorized under subsection (1) of this section in any fiscal year when, at the

beginning of the fiscal year, the unobligated balance in the special fund described in subsection (2) of this section is sufficient to finance the employment and activities of the service officer for the entire fiscal year.

(4) If the unobligated balance in the special fund at the beginning of a fiscal year is not sufficient to finance the employment and activities of the service officer for the entire fiscal year or if the levy authorized by subsection (1) of this section is not made by a county governing body for any year for the objects specified in subsection (2) of this section, all expenses incurred under ORS 408.410 and 408.720 to 408.750 shall be paid from the general funds in the treasury of the county the same as though such levy had been duly made. [Amended by 1963 c.9 §24; 1991 c.459 §398; 1995 c.557 §2]

408.730 Procedure when indigent veterans are cared for by veterans organizations. (1) The commander or executive head of any veterans organization organized under a charter issued by an Act of Congress, proposing to undertake the relief provided for in ORS 408.720, shall file with the county clerk of the county in which the veterans organization may be situated, the names of its commander or executive head and its relief committee, if any. The commander or executive head shall also file a notice in writing that such veterans organization will undertake the relief of the indigent persons provided for in ORS 408.720, and by the fourth Monday in January of each year shall file with the county clerk a similar notice, and render and file a detailed statement of the relief furnished during the preceding year, including the amount thereof, the names of the persons to whom furnished and on whose recommendation, and such other facts and suggestions as are deemed material.

(2) The commander or executive head shall also file a bond, with one or more sureties, to be approved by the county court or judge thereof, or board of county commissioners, in a sum not less than $100 and not more than $1,000. The amount of the bond shall be fixed by the court, judge or board. It shall run to the county, and be conditioned by stating that if said commander or executive head faithfully applies all funds that come into the hands of the commander or executive head for that purpose, to the relief of the indigent persons named in ORS 408.720, it is void. If the bond is enforced there shall be recovered from the principal and sureties thereon the amount which is found to be misappropriated, which shall be paid into the county treasury.

(3) If the county operates on a fiscal year ending on June 30, the notice, statement and bond required by this section may be filed on the fourth Monday in July of each year rather than on the fourth Monday of January. If the statement required by subsection (1) of this section is filed at the time provided in this subsection, this statement shall cover the preceding fiscal year.

(4) On the approval and filing of the bond, and on the recommendation of the relief committee of any such veterans organization, orders shall be drawn in favor of the commander or executive head in the same manner as orders are now drawn for the relief of the poor. The orders shall designate thereon the names of the persons for whom the relief is intended and, in like manner, a sum not exceeding $100 may be drawn to pay the funeral expenses of an indigent veteran, and the indigent wives, widows and the minor children of such veterans. [Amended by 1955 c.56 §1; 2009 c.41 §16]

408.740 Appointment and duties of county veterans' relief officer. The relief fund may be disbursed by an officer to be appointed by the county court or board of county commissioners. The commanders or executive heads of the various veterans organizations shall constitute an advisory board to consult and advise with the court or board relative to administration and disbursement of the fund. Such officer shall investigate all requests for relief, and no warrant shall be paid from the fund except upon the order of such officer. The officer shall give such bond as may be required and approved by the court or board, and may be removed at any time by the court or board. If any vacancy occurs in such office, the court or board shall appoint a successor to such officer. Such officer shall be paid a salary from funds of the county other than the relief fund, to be fixed by the court or board, and audited and paid in the manner that county officers are paid, as provided by law.

408.750 When county court must aid veterans; necessity of veterans organization's consent before sending veterans to poorhouse. (1) If there is no war veterans organization within any county in this state, the county judge thereof shall undertake the relief provided for in ORS 408.720.

(2) The county judge in a county in which there is a war veterans organization, shall not send to the county poorhouse any person for whom relief is provided by ORS 408.720, without first obtaining the consent of the organization's commander or executive head. All the indigent persons named in ORS 408.720 shall be provided for, so far as practicable, at their homes.