



Biofuels Statutory Citations

STATE OF OREGON

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Oregon General Assembly.

470.050. Definitions

As used in this chapter, unless the context requires otherwise:

(1) “Alternative fuel project” means:

(a) Equipment, including vehicles that are not used primarily for personal, family or household purposes, that is modified or acquired directly from a factory and that:

(A) Uses an alternative fuel including electricity, biofuel, gasohol with at least 20 percent denatured alcohol content, hydrogen, hythane, methane, methanol, natural gas, propane or any other fuel approved by the Director of the State Department of Energy; and

(B) Produces lower exhaust emissions or is more energy efficient than equivalent equipment fueled by gasoline or diesel; and

(b) A facility, including a fueling station, or equipment necessary to produce alternative fuel or operate equipment that uses an alternative fuel.

(2) “Applicant” means an applicant for a loan to construct a small scale local energy project.

(3) “Base efficiency package” means the package of energy efficiency upgrades or renewable energy projects for a property that, when energy savings, project repayment costs, tax or other incentives, loan offset grants and other relevant economic factors are considered, is estimated to not increase the utility bill of the customer over the loan repayment term.

(4) “Committee” means the Small Scale Local Energy Project Advisory Committee created under [ORS 470.070](#).

(5) “Cooperative” means a cooperative corporation organized under ORS chapter 62.

(6) “Director” means the Director of the State Department of Energy appointed under [ORS 469.040](#).

(7) “Eligible federal agency” means a federal agency or public corporation created by the federal government that proposes to use a loan for a small scale local energy project. “Eligible federal agency” does not include a federal agency or public corporation created by the federal government that proposes to use a loan for a small scale local energy project to generate electricity for sale.

(8) “Eligible state agency” means a state officer, board, commission, department, institution, branch or agency of the state whose costs are paid wholly or in part from funds held in the State Treasury.

(9) “Energy efficiency and sustainable technology loan” means a loan for a small scale local energy project that is repayable by means of:

(a) A charge included with the participant’s utility customer account billing; or

(b) An alternative repayment method identified by the department and the borrower and specified in the loan agreement.

(10) “Energy Project Bond Loan Fund” means the fund established under [ORS 470.580](#).

(11) “Energy Project Supplemental Fund” means the fund established under [ORS 470.570](#).

(12) “Energy Revenue Bond Repayment Fund” means the fund established under [ORS 470.585](#).

(13) “Energy savings projection” means an examination of the energy performance and site characteristics of a property that, at a minimum, identifies:

(a) A base efficiency package; and

(b) Any additional optional measures that a customer is able to repay and that the sustainable energy project manager believes to be feasible for the site.

(14) “Jobs, Energy and Schools Fund” means the fund established under [ORS 470.575](#).

(15) “Loan” includes the purchase or other acquisition of evidence of indebtedness and money used for the purchase or other acquisition of evidence of indebtedness.

(16) “Loan contract” means the evidence of indebtedness and all instruments used in the purchase or acquisition of the evidence of indebtedness. For eligible federal or state agencies or municipal corporations that are tax exempt entities, a loan contract may include a lease purchase agreement with respect to personal property.

(17) “Loan offset grant” means moneys from the Jobs, Energy and Schools Fund that are used to help offset the initial project costs or loan payments for energy efficiency, renewable energy and energy conservation projects.

(18) “Loan repayment charge” means an amount charged to a utility customer account through on-bill financing as a mechanism for the repayment of an energy efficiency and sustainable technology loan.

(19) “Municipal corporation” has the meaning given in [ORS 297.405](#) and also includes any Indian tribe or authorized Indian tribal organization or any combination of two or more of these tribes or organizations acting jointly in connection with a small scale local energy project.

(20) “On-bill financing” means a mechanism for collecting the repayment of an energy efficiency and sustainable technology loan through a utility customer account billing system.

(21) “Optional package” means measures for promoting energy efficiency or the use of renewable energy:

(a) That are in addition to the measures described in the customer’s base efficiency package;

(b) For which a customer has the ability to repay; and

(c) That the sustainable energy project manager believes to be feasible for the site.

(22) “Oregon business” means a sole proprietorship, partnership, company, cooperative, corporation or other form of business entity that is organized or authorized to do business under Oregon law for profit.

(23) “Primary contractor” means a contractor that:

(a) Has entered into a contract with an owner of property for which a proposed small scale local energy project will be located;

(b) Is responsible for the completion of the small scale local energy project;

(c) Undertakes to complete the small scale local energy project; and

(d) Is responsible for any subcontractors performing work on the small scale local energy project.

(24) “Public Purpose Fund Administrator” means the entity designated by the Public Utility Commission to administer moneys collected by a company through the public purpose charge described under [ORS 757.612](#).

(25) “Recycling project” means a facility or equipment that converts waste into a new and usable product.

(26) “Small business” means:

(a) An Oregon business that is:

(A) A retail or service business employing 50 or fewer persons at the time the loan is made; or

(B) An industrial or manufacturing business employing 200 or fewer persons at the time the loan is made; or

(b) An Oregon subsidiary of a sole proprietorship, partnership, company, cooperative, corporation or other form of business entity for which the total number of employees for both the subsidiary and the parent sole proprietorship, partnership, company, cooperative, corporation or other form of business entity at the time the loan is made is:

(A) Fifty or fewer persons if the subsidiary is a retail or service business; and

(B) Two hundred or fewer if the subsidiary is an industrial or manufacturing business.

(27) “Small scale local energy program loan” means a loan for a small scale local energy project other than an energy efficiency and sustainable technology loan.

(28) “Small scale local energy project” means any of the following:

(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the applicant or another person, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state.

(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the applicant or another person, including energy used in transportation.

(c) A recycling project.

(d) An alternative fuel project.

(e) An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this subsection, including but not limited to restarting a dormant project.

(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule. For purposes of this paragraph, “system, mechanism or series of mechanisms” includes related and integrated upgrades to attain compliance with standards set in the State of Oregon Structural Specialty Code and Fire and Life Safety Code, and seismic safety upgrades.

(g) A project described in paragraphs (a) to (f) of this subsection, whether or not the existing project was originally financed under this chapter, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.

(h) A project described in paragraphs (a) to (g) of this subsection that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

(29) “Small Scale Local Energy Project Administration and Bond Sinking Fund” means the fund created under [ORS 470.300](#).

(30) “Small Scale Local Energy Project Loan Fund” means the loan fund created by Article XI-J of the Oregon Constitution and appropriated to the State Department of Energy under [ORS 470.130](#).

(31) “Sustainable energy project manager” means the organization responsible for promoting the energy efficiency and sustainable technology loan program or the clean energy deployment program and related incentives for energy efficiency and renewable energy at the neighborhood and community level.

(32) “Utility service territory” means the allocated territory in which a utility subject to this chapter provides a utility service. For the purposes of this subsection, “allocated territory” and “utility service” have the meanings given those terms in [ORS 758.400](#).

Credits [Laws 1979, c. 672, § 1](#); [Laws 1981, c. 50, § 1](#); [Laws 1983, c. 188, § 1](#); [Laws 1985, c. 593, § 2](#); [Laws 1993, c. 496, § 4](#); [Laws 1995, c. 551, § 8](#); [Laws 1997, c. 29, § 1](#); [Laws 1999, c. 365, § 7](#); [Laws 2003, c. 186, § 55](#); [Laws 2005, c. 201, § 3](#); [Laws 2009, c. 753, § 54, eff. July 22, 2009](#); [Laws 2009, c. 760, § 1, eff. Jan. 1, 2010](#); [Laws 2011, c. 467, § 11, eff. June 23, 2011](#); [Laws 2013, c. 8, § 1, eff. Jan. 1, 2014](#).

470.060. Loan fund applications; content and fees

(1) The following may file with the State Department of Energy an application to obtain moneys for a small scale local energy project as provided in this chapter:

- (a) An individual who is an Oregon resident;
- (b) An Oregon business;
- (c) A nonprofit or public cooperative;
- (d) A nonprofit corporation;
- (e) An eligible federal agency;
- (f) An eligible state agency;
- (g) A public corporation created by this state;
- (h) An intergovernmental entity created pursuant to an intergovernmental agreement under [ORS 190.003](#) to [190.130](#);
- (i) A special district;

(j) A local improvement district; or

(k) A municipal corporation.

(2) Applications to obtain financing for a small scale local energy project shall be made in writing on a form prescribed by the State Department of Energy. Applications submitted to the State Department of Energy shall:

(a) Describe the nature and purpose of the proposed small scale local energy project.

(b) State whether any purposes other than energy production, but consistent with energy production, will be served by the proposed small scale local energy project, and the nature of the other purposes, if any.

(c) Include an evaluation of the potential of the small scale local energy project to meet local community energy needs.

(d) Include an evaluation of the potential environmental impacts of the small scale local energy project.

(e) State whether any moneys other than those in the loan fund are proposed to be used for the development of the proposed small scale local energy project, and whether any other moneys are available or have been sought for the project.

(f) Describe the source of moneys for repayment of the loan applied for.

(3) If the application is for a loan other than an energy efficiency and sustainable technology loan to an individual, a fee of one-tenth of one percent of the amount of the loan applied for or \$2,500, whichever is less, shall be submitted with each application. In addition, the applicant may be required to pay for costs incurred in connection with the application that exceed the application fee and which the Director of the State Department of Energy determines are incurred solely in connection with processing the application. The applicant shall be advised of any additional costs the applicant must pay before the costs are incurred.

Credits [Laws 1979, c. 672, § 2](#); [Laws 1981, c. 50, § 2](#); [Laws 1983, c. 188, § 2](#); [Laws 1985, c. 593, § 3](#); [Laws 1997, c. 29, § 2](#); [Laws 2005, c. 201, § 4](#); [Laws 2009, c. 753, § 55, eff. July 22, 2009](#).

470.065. Application information to be held confidential

(1) The following records, communications and information furnished by or on behalf of the applicant under this chapter shall be confidential and maintained as such, if so requested in writing by the person providing the information:

(a) Personal financial statements;

(b) Financial statements of applicants;

(c) Customer lists;

(d) Information of an applicant pertaining to litigation to which the applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the applicant shows that such litigation is reasonably likely to occur;

(e) Production, sales and cost data;

(f) Marketing strategy information that relates to an applicant's plan to address specific markets or the applicant's strategy regarding specific competitors, or both; and

(g) Technical information or data related to an applicant's proposed small scale local energy project, including but not limited to any description, analysis, evaluation or projection regarding the project or a component of the project.

(2) The confidentiality provided by subsection (1)(d) of this section does not apply to concluded litigation. Nothing in subsection (1)(d) of this section limits any right granted by discovery statutes to a party to litigation or potential litigation.

Credits [Laws 1991, c. 118, § 2](#); [Laws 2005, c. 201, § 5](#); [Laws 2007, c. 71, § 152](#), eff. Jan. 1, 2008.

470.070. Small Scale Local Energy Project Advisory Committee; membership; officers

(1) The Director of the State Department of Energy shall appoint a Small Scale Local Energy Project Advisory Committee to review applications made under [ORS 470.060](#) and rules adopted under [ORS 470.080](#), other than applications for energy efficiency and sustainable technology loans, and make recommendations regarding those applications to the director.

(2) Nine members shall be appointed to the Small Scale Local Energy Project Advisory Committee. Each member shall be appointed to serve a four-year term, commencing on the date of appointment, and until a successor is appointed and qualified. The members shall represent the interest of the citizens of this state and shall be knowledgeable in the areas of small scale energy technology, natural resource development, environmental protection, finance, agriculture, local government operations and utility operations. At least three members shall reside outside the Willamette Valley.

(3) The committee shall elect its own presiding officer, adopt rules for its procedure and meet on call of the presiding officer or a majority of the members. A majority of the members shall constitute a quorum to do business. The director shall provide administrative facilities and services for the committee.

(4) Members of the Small Scale Local Energy Project Advisory Committee shall be entitled to expenses as provided by [ORS 292.495](#).

Credits [Laws 1979, c. 672, § 3](#); [Laws 1987, c. 365, § 1](#); [Laws 2003, c. 186, § 56](#); [Laws 2009, c. 753, § 56](#), eff. July 22, 2009; [Laws 2009, c. 760, § 2](#), eff. Jan. 1, 2010.

470.080. Small scale local energy projects; application review; referral to committee

(1) After consultation with the Small Scale Local Energy Project Advisory Committee, the Director of the State Department of Energy shall establish by rule standards and criteria for small scale local energy projects to be funded under this chapter other than projects funded through energy efficiency and sustainable technology loans. The standards and criteria shall operate to encourage diversity in projects funded, give preference to the maximum extent practical to projects proposed by individuals and small businesses, ensure acceptability of environmental impacts and shall require consideration of the potential contribution of a project if developed at other suitable locations to meeting the energy needs of this state. The standards and criteria shall give the least preference to projects proposed by an eligible federal agency.

(2) All applications submitted under [ORS 470.060](#) shall be reviewed by the State Department of Energy. The department may request that the applicant submit additional information or revise the application. The department shall:

(a) Determine whether the application meets the standards and criteria adopted under subsection (1) of this section; and

(b) Recommend approval or denial of the loan application, and if approval is recommended in what amount the loan should be made.

(3) After concluding its review, unless the application meets the criteria established by the committee under subsection (4) of this section, the department shall refer the application and its findings and recommendation to the committee for its review. The department shall notify the applicant of the date, time and place of any oral presentation to the committee on the application. The committee shall review the application and the department's findings and recommendations and advise the director whether the proposed small scale local energy project meets the criteria established by the director under subsection (1) of this section, whether the project should be financed with moneys from the Small Scale Local Energy Project Loan Fund and in what amount the loan should be made if approved.

(4) The committee may provide for direct referral of an application by the department to the director if the application meets criteria established by the committee.

Credits [Laws 1979, c. 672, § 4](#); [Laws 1981, c. 50, § 3](#); [Laws 1997, c. 29, § 3](#); [Laws 2003, c. 186, § 57](#); [Laws 2009, c. 753, § 57, eff. July 22, 2009](#).

470.090. Administrator to approve or reject project finances; amount of loan, certification; notice

(1) After consideration of the recommendation of the Small Scale Local Energy Project Advisory Committee or the State Department of Energy as provided by [ORS 470.080](#), the Director of the State Department of Energy may approve or reject the financing of a small scale local energy project

described in an application filed as provided in [ORS 470.060](#), using moneys in the Small Scale Local Energy Project Loan Fund. Approval of a loan by the director shall include a certification of the amount of the loan.

(2) The director's approval of a loan for a small scale local energy project shall be based on a finding that:

(a) The proposed small scale local energy project meets established standards and criteria under [ORS 470.080](#);

(b) The proposed project is consistent with the preservation and enhancement of environmental quality;

(c) The proposed project is feasible and a reasonable risk from practical and economic standpoints;

(d) The plan for development of the project is satisfactory;

(e) The applicant is qualified, creditworthy and responsible and is willing and able to enter into a contract with the director for development and repayment as provided in [ORS 470.150](#) or [470.645](#);

(f) There is a need for the proposed small scale local energy project and the applicant's financial resources are adequate to provide the working capital to maintain the project after completion;

(g) Moneys in the loan fund are or will be available for the development of the proposed small scale local energy project;

(h) A dwelling constructed before January 1, 1979, that will be served by a proposed space heating project is weatherized according to the standards established under [ORS 469.155](#);

(i) Except for a proposed space heating project for a dwelling under paragraph (h) of this subsection, the loan does not finance any project for which the projected economic value of the energy savings of the project during the first year the project is implemented is equal to or greater than the cost of the project; and

(j) The loan will not preclude individuals and small businesses from access to loan moneys.

(3) The director shall notify the applicant and the presiding officer of the committee of the director's action and of the reasons for that action. The director shall inform the applicant of the review procedure established in [ORS 470.100](#).

Credits [Laws 1979, c. 672, § 5](#); [Laws 1981, c. 50, § 4](#); [Laws 1981, c. 565, § 4](#); [Laws 1983, c. 188, § 3](#); [Laws 2003, c. 186, § 58](#); [Laws 2005, c. 201, § 6](#); [Laws 2009, c. 753, § 58](#), eff. July 22, 2009.

470.100. Committee review of rejection or approval in different amount; appeals to Governor; Governor's action as final

(1) If the Director of the State Department of Energy rejects a loan application or approves a loan amount different than that requested by the applicant, the applicant may request that the Small Scale Local Energy Project Advisory Committee review the director's action.

(2) The committee may review the director's action on its own motion or at the request of the applicant. A majority of the members of the committee may authorize the presiding officer of the committee to appeal the director's action to the Governor.

(3) An appeal of the director's action may be initiated by the presiding officer of the committee no later than 45 days after the date the applicant receives notice of the director's action under [ORS 470.090](#).

(4) The decision of the Governor is final. If the Governor fails to act within 30 days after receiving the appeal, the appeal shall be considered to be denied.

(5) Notwithstanding ORS chapter 183, a decision of the director or the Governor on an application for financing under [ORS 470.090](#) or this section is not subject to judicial review.

Credits Laws 1979, c. 672, § 6; [Laws 2003, c. 186, § 59](#); [Laws 2009, c. 753, § 59, eff. July 22, 2009](#).

470.110. Credits of gifts and grants to loan fund

The Director of the State Department of Energy may accept gifts of money or other property from any source, given for the purposes of [ORS 470.050 to 470.120, 470.140 \(1\) and 470.150 to 470.210](#). Money so received shall be paid into the Small Scale Local Energy Project Loan Fund. Money or other property so received shall be used for the purposes for which received.

Credits Laws 1979, c. 672, § 12; [Laws 2003, c. 186, § 60](#); [Laws 2009, c. 753, § 60, eff. July 22, 2009](#).

470.120. Limitations on loan amounts, funding by other sources

If the applicant receives from any source other than the Small Scale Local Energy Project Loan Fund, the Energy Project Supplemental Fund or the Energy Project Bond Loan Fund any moneys to assist in the development of the project, the amount of the loan to the applicant from the Small Scale Local Energy Project Loan Fund, Energy Project Supplemental Fund or Energy Project Bond Loan Fund shall be limited to that amount necessary for the development of those portions of the project not funded by other sources.

Credits Laws 1979, c. 672, § 15; [Laws 2009, c. 753, § 61, eff. July 22, 2009](#).

470.130. Loan fund, appropriations

All moneys in the Small Scale Local Energy Project Loan Fund created by Article XI-J of the Oregon

Constitution are appropriated continuously to the State Department of Energy and shall be used for the purposes authorized under this chapter.

Credits Laws 1979, c. 672, § 16; [Laws 2003, c. 186, § 61](#); [Laws 2009, c. 753, § 62, eff. July 22, 2009](#).

470.135. Small Scale Local Energy Project Loan Program funds and accounts, administration

The duties of the Director of the Oregon Department of Administrative Services to establish, maintain and keep accounts of, and make disbursements or transfers out of, the funds and accounts established or identified in the two bond indentures, as supplemented, dated June 1, 1981, and September 1, 1985, that relate to the Small Scale Local Energy Project Loan Program established by Article XI-J of the Oregon Constitution and this chapter are transferred to the State Department of Energy. Notwithstanding the transfer of these fiscal functions to the State Department of Energy, in accordance with [ORS 291.015 \(2\)](#), the State Department of Energy's performance of these fiscal functions shall remain subject to the control of the Oregon Department of Administrative Services.

Credits [Laws 1993, c. 496, § 2](#); [Laws 2003, c. 186, § 62](#).

470.140. Rulemaking authority; administrator to file biennial reports

(1) In accordance with the applicable provisions of ORS chapter 183, the Director of the State Department of Energy may adopt rules considered necessary to carry out the purposes of this chapter.

(2) The director shall submit to the Legislative Assembly and the Governor a biennial report of the transactions of the Small Scale Local Energy Project Loan Fund and the Small Scale Local Energy Project Administration and Bond Sinking Fund in such detail as will accurately indicate the condition of the funds.

Credits Laws 1979, c. 762, §§ 13,27; [Laws 2003, c. 186, § 63](#); [Laws 2009, c. 753, § 63, eff. July 22, 2009](#).

470.145. Duty of State Department of Energy to develop marketing plan

The State Department of Energy shall develop, implement and periodically update a marketing plan to inform potential applicants of the availability of small scale local energy project loans. The first priority of the marketing plan shall be to inform individuals and small businesses that small scale local energy project loans are available.

Credits Laws 1983, c. 188, § 9.

470.150. Loan contracts, contents; security

Except as provided in [ORS 470.155](#) and [470.170](#), if the Director of the State Department of Energy approves the financing of a small scale local energy project, the director, on behalf of the state, and the applicant may enter into a loan contract, secured by a first lien or by other good and sufficient collateral in the manner provided in [ORS 470.155](#) to [470.210](#). For purposes of this section, the interest of the State Department of Energy under a lease purchase contract entered into with an eligible federal or state agency or a municipal corporation may constitute good and sufficient collateral. The contract:

(1) May provide that the director, on behalf of the state, must approve the arrangements made by the applicant for the development, operation and maintenance of the small scale local energy project, using moneys in the Small Scale Local Energy Project Loan Fund for the project development.

(2) Shall provide a plan for repayment by the applicant of moneys borrowed from the loan fund used for the development of the small scale local energy project and interest on those moneys used at a rate of interest the director determines is necessary to provide adequate funds to recover the administrative expenses incurred in connection with the loan. The director shall set the interest rate at an incremental rate above the interest rate on the underlying bonds in an amount sufficient to recover all program-related costs including, but not limited to, implementation, financing, administration and promotional costs for the program. The incremental rate for projects proposed by an eligible federal agency shall be greater than the incremental rate charged to any other governmental borrower. The repayment plan, among other matters:

(a) Shall provide for commencement of repayment by the applicant of moneys used for project development and interest thereon not later than two years after the date of the loan contract or at any other time as the director may provide. In addition to any other prepayment option provided in a borrower's loan agreement, the department shall provide a borrower the opportunity to prepay the borrower's loan, without any additional premium, by defeasing such loan to the call date of the bond or bonds funding the applicable loan, or any refunding bonds linked to the loan, but such defeasance shall occur only if the director finds that after the defeasance, the sinking fund will have sufficient funds to make payments required under [ORS 470.300 \(1\)](#).

(b) May provide for reasonable extension of the time for making any repayment in emergency or hardship circumstances, if approved by the director.

(c) Shall provide for evidence of debt assurance of and security for repayment by the applicant considered necessary or proper by the director.

(d) Shall set forth the period of loan, which may not exceed the usable life of the completed project, or 30 years from the date of the loan contract, whichever is less.

(e) May set forth a procedure for formal declaration of default of payment by the director, including formal notification of all relevant federal, state and local agencies; and further, a procedure for notification of all relevant federal, state and local agencies that declaration of default has been rescinded when appropriate.

(3) May include provisions satisfactory to the director for field inspection, the director to be the final judge of completion of the project.

(4) May provide that the liability of the state under the contract is contingent upon the availability of moneys in the loan fund for use in the planning and development of the project.

(5) May include further provisions the director considers necessary to ensure expenditure of the funds for the purposes set forth in the approved application.

(6) May provide that the director may institute an appropriate action or suit to prevent use of the project financed by the loan fund by any person who is delinquent in the repayment of any moneys due the sinking fund.

(7) If the project is being financed by an energy efficiency and sustainable technology loan or small scale local energy program loan, in addition to the requirements of subsections (1) to (6) of this section, shall include:

(a) For an energy efficiency and sustainable technology loan that relies on an on-bill financing system for the collection of a loan repayment charge, an agreement by the applicant to notify a person acquiring ownership of, or an interest in, the property from the applicant that the loan repayment charge will be transferred to the utility customer account of the person acquiring the ownership or interest unless the loan is discharged before or at the time the ownership or interest transfers;

(b) A plainly worded acknowledgment by the applicant that failure to make payments as required under the loan agreement may result in the foreclosure of a property lien or other debt collection actions;

(c) A waiver stating that the applicant waives any jurisdictional or other irregularities or defects in:

(A) The energy efficiency and sustainable technology loan program;

(B) A small scale local energy project;

(C) The small scale local energy program loan provisions;

(D) This chapter; or

(E) Department rules that relate in any way to the loan repayment charge, real property lien provisions or any form or combination of loan security or to the requirement to satisfy the loan obligation;

(d) If the applicant is not the owner of the property to be burdened by the loan repayment charge, fixture filing or real property lien, provision for participation by the property owner as a party to the contract or a notarized authorization by the owner for the fixture filing and lien; and

(e) A description of any other conditions required by the department.

Credits [Laws 1979, c. 672, § 7](#); [Laws 1985, c. 593, § 4](#); [Laws 1987, c. 365, § 2](#); [Laws 1997, c. 29, § 4](#); [Laws 1997, c. 482, § 1](#); [Laws 1999, c. 365, § 8](#); [Laws 2003, c. 186, § 64](#); [Laws 2009, c. 753, § 64, eff.](#)

July 22, 2009.

470.155. Loan contract treated as intergovernmental agreements

A loan contract with an eligible state agency for a small scale local energy project may be made in the form of an intergovernmental agreement under ORS chapter 190. The agreement shall set forth, among other matters, that:

- (1) The small scale local energy project shall be security for the loan.
- (2) The applicant pledges to request each biennium during the term of the loan, spending authorization or appropriation of funds from the Legislative Assembly or pledges to otherwise provide funds sufficient to pay the loan payments due that biennium.
- (3) If applicable, the pledge of the applicant to repay the loan shall be contingent upon the continued spending authorization or appropriation by the Legislative Assembly of funds sufficient to pay the loan.

Credits Laws 1985, c. 593, § 6; [Laws 1991, c. 118, § 3](#); [Laws 1997, c. 29, § 5](#).

470.160. Payments from loan fund

If the Director of the State Department of Energy approves a loan for a small scale local energy project, the State Treasurer shall pay moneys for such project from the Small Scale Local Energy Project Loan Fund or Energy Project Bond Loan Fund in accordance with the terms of the loan contract, as prescribed by the director.

Credits Laws 1979, c. 672, § 8; [Laws 2003, c. 186, § 65](#); [Laws 2009, c. 753, § 65, eff. July 22, 2009](#).

470.170. Security for loan; duties of administrator

(1)(a) Except as otherwise provided in this subsection, when a loan is made under this chapter to an applicant other than a municipal corporation, the loan shall be secured pursuant to a mortgage, trust deed, security agreement, pledge, assignment or similar instrument, by a security interest or lien on real or personal property in the full amount of the loan or as the Director of the State Department of Energy shall require for adequate security, including but not limited to long-term leasehold interests or equitable interests in real property or personal property. In lieu of, or in addition to, any of the collateral otherwise described in this paragraph, the applicant may secure the loan by providing credit enhancement, including but not limited to a letter of credit or payment bond, or a guaranty acceptable to the director.

(b) To the extent consistent with any declaration, pledge or agreement for bonds issued under [ORS 470.220](#) to [470.290](#), an energy efficiency and sustainable technology loan shall be secured as

provided in [ORS 470.680](#) or [470.685](#).

- (2) When a loan is made to a municipal corporation for the development of a small scale local energy project under this chapter, the loan shall be secured as the director shall require for adequate security. The security may be in the form of a lien, mortgage, interest under a lease-purchase contract or other form of security acceptable to the director and the municipal corporation.
- (3) When a loan made under this chapter is secured by a lien on the real property of the applicant, the director shall perfect the lien by recording as provided by law.
- (4) Upon payment of all amounts loaned to an applicant pursuant to this chapter, the director shall file a satisfaction or release notice that indicates repayment of the loan.
- (5) The director may cause to be instituted appropriate proceedings to foreclose liens for delinquent loan payments, and shall pay the proceeds of any such foreclosure, less the director's expenses incurred in foreclosing, into the Small Scale Local Energy Project Administration and Bond Sinking Fund if the loan was issued from the Small Scale Local Energy Project Loan Fund, or into the Energy Project Bond Loan Fund if the loan was from the Energy Project Bond Loan Fund. In a foreclosure proceeding the director may bid on property offered for sale in the proceedings and may acquire title to the property on behalf of the state.
- (6) The director may take any action, make any disbursement, hold any funds or institute any action or proceeding necessary to protect the state's interest.
- (7) The director may settle, compromise or release, for reasons other than uncollectibility as provided in [ORS 293.240](#), all or part of any loan obligation so long as the director's action is consistent with the purposes of this chapter and does not impair the ability to pay the administrative expenses of the State Department of Energy or the obligations of any bonds then outstanding.

Credits [Laws 1979, c. 672, § 9](#); [Laws 1981, c. 50, § 5](#); [Laws 1983, c. 188, § 4](#); [Laws 1987, c. 365, § 3](#); [Laws 1999, c. 365, § 9](#); [Laws 2001, c. 584, § 10](#); [Laws 2003, c. 186, § 66](#); [Laws 2009, c. 753, § 66, eff. July 22, 2009](#).

470.180. Municipal corporations who default on loans, withholding of state funds

In addition to any other remedy available to the State Department of Energy, if a municipal corporation entitled by law to share in the apportionment of any state revenues or funds defaults on any payments due to the State of Oregon under a loan contract entered into under [ORS 470.150](#), the State Department of Energy may certify that fact to the Oregon Department of Administrative Services and the Oregon Department of Administrative Services shall withhold payment of any revenues or funds in the State Treasury to which the municipal corporation is entitled, in an amount not to exceed the balance owing on the loan, until the State Department of Energy certifies that the default has been remedied.

Credits [Laws 1979, c. 672, § 10](#); [Laws 1987, c. 365, § 4](#).

470.190. Remedies

If an applicant fails to comply with a contract entered into with the Director of the State Department of Energy for development and repayment as provided in [ORS 470.150](#) or [470.645](#), the director, in addition to remedies provided in [ORS 470.170](#) and [470.180](#), may seek other appropriate legal remedies to secure the loan and may contract as provided in [ORS 470.150](#) with any other person for continuance of development and for repayment of moneys from the Small Scale Local Energy Project Loan Fund or from the Energy Project Bond Loan Fund used therefor and interest thereon.

Credits Laws 1979, c. 672, § 11; [Laws 2003, c. 186, § 67](#); [Laws 2009, c. 753, § 67, eff. July 22, 2009](#).

470.200. Refinancing projects; use of funds

If any small scale local energy project is refinanced or an additional grant or loan intended to finance the project development is obtained from other sources after the execution of the loan from the state, all such funds shall be used to repay the state unless the Director of the State Department of Energy finds that repayment of the state from the additional grant or loan would be contrary to public interest.

Credits Laws 1979, c. 672, § 14; Laws 1983, c. 188, § 5.

470.210. Municipal corporations, authority to enter into loan contracts; purchase of municipal corporation's general obligation or revenue; evidence of indebtedness

(1) Notwithstanding any other provision of law, a municipal corporation may enter into a loan contract with the State Department of Energy to finance a small scale local energy project.

(2) In order to finance a small scale local energy project, the Director of the State Department of Energy, on behalf of the state and in lieu of entering into a loan contract under subsection (1) of this section, may purchase or otherwise acquire a municipal corporation's general obligations or revenue obligations, including but not limited to bonds, notes, certificates of participation, warrants or lease purchase agreements.

Credits Laws 1983, c. 188, § 8; [Laws 2003, c. 186, § 68](#); [Laws 2005, c. 201, § 7](#).

470.220. Issuance of bonds

In order to provide funds for the purposes specified in Article XI-J of the Oregon Constitution, bonds may be issued as provided in [ORS 470.220](#) to [470.290](#).

Credits Laws 1979, c. 672, § 17; Laws 1981, c. 660, § 23; [Laws 2005, c. 201, § 8](#).

470.225. Bonds issued, sold

The State Treasurer shall issue bonds described in [ORS 470.220](#) to [470.290](#) in accordance with the applicable provisions of ORS chapter 286A.

Credits [Laws 2005, c. 201, § 2](#); [Laws 2007, c. 783, § 207, eff. Jan. 1, 2008](#).

470.230. Proceeds of bonds, credits to loan fund; use of funds

Except as provided in [ORS 470.270](#), all moneys obtained from the sale of general obligation bonds under [ORS 470.220](#) to [470.290](#) and Article XI-J of the Oregon Constitution shall be credited by the State Treasurer to the Small Scale Local Energy Project Loan Fund. Those moneys shall be used only for the purposes stated in Article XI-J of the Oregon Constitution, including payment of the costs of issuing the bonds and of obtaining credit enhancement for the bonds, and making payments of interest on bonds issued pursuant to the provisions of [ORS 470.220](#) to [470.290](#) if there are insufficient funds in the Small Scale Local Energy Project Administration and Bond Sinking Fund to make the payments referred to in [ORS 470.300 \(1\)](#). Moneys loaned to municipal corporations but withheld by the State Department of Energy for security or to pay for future project costs may remain in the loan fund. Pending the use of the moneys in the loan fund for the proper purposes, the moneys may be invested in the manner provided by law.

Credits [Laws 1979, c. 672, § 18](#); [Laws 1987, c. 365, § 5](#); [Laws 2003, c. 186, § 69](#); [Laws 2005, c. 201, § 9](#); [Laws 2009, c. 753, § 68, eff. July 22, 2009](#).

470.240. Bonds designated as general obligations

All general obligation bonds issued under [ORS 470.220](#) to [470.290](#) and Article XI-J of the Oregon Constitution shall contain a direct promise of the State of Oregon to pay the principal amount of the bonds, plus any accrued interest and any redemption premium. The principal of and the interest and redemption premium, if any, upon the bonds, when due, shall be paid at the fiscal agency of the State of Oregon. The charges imposed by that agency for its services shall be paid, upon approval by the State Treasurer, from the Small Scale Local Energy Project Administration and Bond Sinking Fund.

Credits [Laws 1979, c. 672, § 19](#); [Laws 1993, c. 496, § 5](#); [Laws 2005, c. 201, § 10](#); [Laws 2009, c. 753, § 69, eff. July 22, 2009](#).

470.270. Refunding bonds

(1) After consultation with the State Treasurer, the Director of the State Department of Energy may issue general obligation refunding bonds for the purpose of refunding outstanding bonds issued under [ORS 470.220](#) to [470.290](#) and Article XI-J of the Oregon Constitution. The refunding bonds may be sold in the same manner as other bonds are sold under [ORS 470.220](#) to [470.290](#). All moneys obtained from the sale of refunding bonds shall be credited by the State Treasurer to the Small Scale Local

Energy Project Administration and Bond Sinking Fund. The refunding bonds may be issued to refund bonds previously issued for refunding purposes. Pending the use of moneys obtained from the sale of refunding bonds for proper purposes, such moneys may be invested in the manner provided by law.

(2) Notwithstanding any provision of [ORS 470.150](#), if the State Department of Energy issues taxable refunding bonds at a lower interest rate to refund outstanding general obligation bonds, and is unable to allow loan recipients to receive a portion of the interest savings, the director shall allow the loan recipient to prepay the outstanding loan balance upon the request of the recipient. The director shall respond to such a request within 30 days after receiving the request by specifying the outstanding principal balance after applying reserves held by the state for the borrower and the prepayment premium as listed in the bond document, loan document or bond purchase agreement.

(3) The department shall pursue opportunities for refunding bonds to reduce interest sums payable by the department. When the department refunds a bond with tax-exempt bonds, the department shall share, on an equitable basis, the savings from any refunding with the borrowers whose loans were made with the proceeds of the refunded bonds in an amount consistent with a finding by the director that the sinking fund has, and will continue to have, sufficient funds to make payments required under [ORS 470.300 \(1\)](#). The department may not refund tax-exempt bonds with taxable bonds, unless the department is able to share the savings associated with such a refunding with the borrowers whose loans are linked to such bonds. At least 120 days before the date on which the department intends to issue refunding bonds, the director shall notify each borrower whose loan was made from the proceeds of the bonds being refunded and shall offer the borrower the opportunity to prepay the borrower's loan. A borrower shall respond within 60 days of the date of the notice described in this subsection if the borrower intends to prepay the borrower's loan.

Credits [Laws 1979, c. 672, § 22](#); [Laws 1995, c. 282, § 1](#); [Laws 1997, c. 482, § 2](#); [Laws 2003, c. 186, § 72](#); [Laws 2005, c. 201, § 11](#); [Laws 2009, c. 753, § 70, eff. July 22, 2009](#).

470.280. Repayment of bonds from sinking fund moneys

(1) The State Treasurer shall make payment of the principal of and the interest and redemption premium, if any, on any general obligation bond issued under [ORS 470.220 to 470.290](#) from the Small Scale Local Energy Project Administration and Bond Sinking Fund.

(2) The State Treasurer shall compute and determine in January of each year, after the sale of bonds under [ORS 470.220 to 470.290](#) and Article XI-J of the Oregon Constitution, the amount of principal, interest and redemption premiums that will fall due during the year on bonds then outstanding and unpaid and shall maintain or hold in the sinking fund sufficient moneys to pay such maturing obligations.

Credits [Laws 1979, c. 672, §§ 21, 24](#); [Laws 2005, c. 201, § 12](#); [Laws 2009, c. 753, § 71, eff. July 22, 2009](#).

470.290. Limitations on indebtedness amounts, constitutional limits

No bonds shall be issued or sold under [ORS 470.220](#) to 470.290 nor indebtedness incurred thereunder, which singly, or in the aggregate with previous debts or liabilities incurred for small scale local energy projects, shall exceed any limitation provided in the Oregon Constitution at the date of the issuance and sale of such bonds. If the maximum aggregate principal sum of bonds authorized to be issued under [ORS 470.220](#) to 470.290 exceeds any limitation provided in the Oregon Constitution, bonds shall be issued under [ORS 470.220](#) to 470.290 in the aggregate principal sum of not to exceed that authorized under the limitation provided in the Oregon Constitution.

Credits Laws 1979, c. 672, § 25.

470.300. Small Scale Local Energy Project Administration and Bond Sinking Fund; sources and uses

(1) There hereby is created the Small Scale Local Energy Project Administration and Bond Sinking Fund, separate and distinct from the General Fund, to provide for payment of:

(a) Administrative expenses of the State Department of Energy and the Director of the State Department of Energy in processing applications, investigating potential small scale local energy projects and proposed loans and servicing and collecting outstanding loans made from the Small Scale Local Energy Project Loan Fund, if the expense is not paid directly by the applicant.

(b) Administrative expenses of the State Treasurer in carrying out the duties, functions and powers imposed upon the State Treasurer by this chapter.

(c) Principal, interest and redemption premium, if any, of all bonds issued pursuant to the provisions of [ORS 470.220](#) to [470.290](#) and Article XI-J of the Oregon Constitution.

(d) Net investment earnings on any funds loaned to municipal corporations but withheld as provided in [ORS 470.230](#).

(e) Costs of issuing the bonds and of obtaining credit enhancement for the bonds.

(2) The fund created by subsection (1) of this section shall consist of:

(a) Application fees required by [ORS 470.060](#), unless the department requires the applicant to pay the fee directly for a cost incurred in connection with the application.

(b) Repayment of moneys loaned to applicants from the Small Scale Local Energy Project Loan Fund, including interest on such moneys.

(c) Such moneys as may be appropriated to the fund by the Legislative Assembly.

(d) Moneys obtained from the sale of refunding bonds under [ORS 470.220](#) to [470.290](#) and any accrued interest on such bonds.

(e) Moneys received from ad valorem taxes levied pursuant to Article XI-J of the Oregon Constitution, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

(f) Interest earned on cash balances invested by the State Treasurer.

(g) Moneys transferred from the loan fund.

(h) Gifts, grants, donations or other moneys for promoting small scale local energy program loan purposes and goals.

(3) The director, with the approval of the State Treasurer, may transfer moneys from the sinking fund to the loan fund if:

(a) A cash flow projection shows that, for the term of the bonds outstanding at the time the director transfers the moneys, remaining moneys in the sinking fund, together with expected loan contract payments and fund earnings, will improve the financial basis of the program and will continue to be adequate to pay bond principal, interest, redemption premiums, if any, and administration costs; and

(b) The transfer will not create the need for issuance of any bonds.

(4) The director, with the approval of the State Treasurer, may establish separate and distinct accounts within the sinking fund to accomplish the purpose of this section.

Credits Laws 1979, c. 672, § 26; Laws 1981, c. 50, § 8; Laws 1983, c. 188, § 6; Laws 1985, c. 805, § 4; Laws 1987, c. 365, § 6; [Laws 1993, c. 496, § 6](#); [Laws 2003, c. 186, § 73](#); [Laws 2005, c. 201, § 13](#); [Laws 2009, c. 753, § 72, eff. July 22, 2009](#).

470.310. Inadequacy of sinking fund, procedures

(1) If there are insufficient funds in the Small Scale Local Energy Project Administration and Bond Sinking Fund to make the payments referred to in [ORS 470.300 \(1\)](#), the Director of the State Department of Energy may request the funds necessary for such payments from the Legislative Assembly or the Emergency Board.

(2) When the director determines that moneys in sufficient amount are available in the sinking fund, the State Treasurer shall reimburse the General Fund without interest, in an amount equal to the amount allocated by the Legislative Assembly or the Emergency Board pursuant to subsection (1) of this section. The moneys used to reimburse the General Fund under this subsection shall not be considered a budget item on which a limitation is otherwise fixed by law, but shall be in addition to any specific appropriations or amounts authorized to be expended from continually appropriated moneys.

Credits Laws 1979, c. 672, § 28; [Laws 2003, c. 186, § 74](#); [Laws 2009, c. 753, § 73, eff. July 22, 2009](#).