Oregon

Tina Kotek, Governor

HPAC Finance Work Group Recommendation

Work Group

- ☐ Availability of land
- ☐ Land development permit applications
- ☐ Codes and design
- ☐ Workforce shortages
- ☐ Financing

Recommendation:

Provide resources to support the long-term needs of property and liability insurance for affordable housing. Potential actions include but are not limited to:

1. Creation of a state funded, first-loss risk pool for Rent Restricted/Affordable Housing providers (e.g., the State reimburses the insured for the first $50,000; housing providers raise deductibles/SIRs which in turn lowers premiums).
2. Mandatory, binding arbitration for all landlord-tenant disputes under $25,000; appeals to circuit court limited to matters of law (i.e., not a de novo trial of facts).
3. Study financial offsets for unexpected increases in insurance premiums.

Related Work Plan Topics:

- Increase the production and long-term sustainability of affordable housing.
- Increase the preservation and long-term sustainability of affordable housing.

Adoption Date:

October 18, 2023

Method of Adoption:

Meeting consensus.

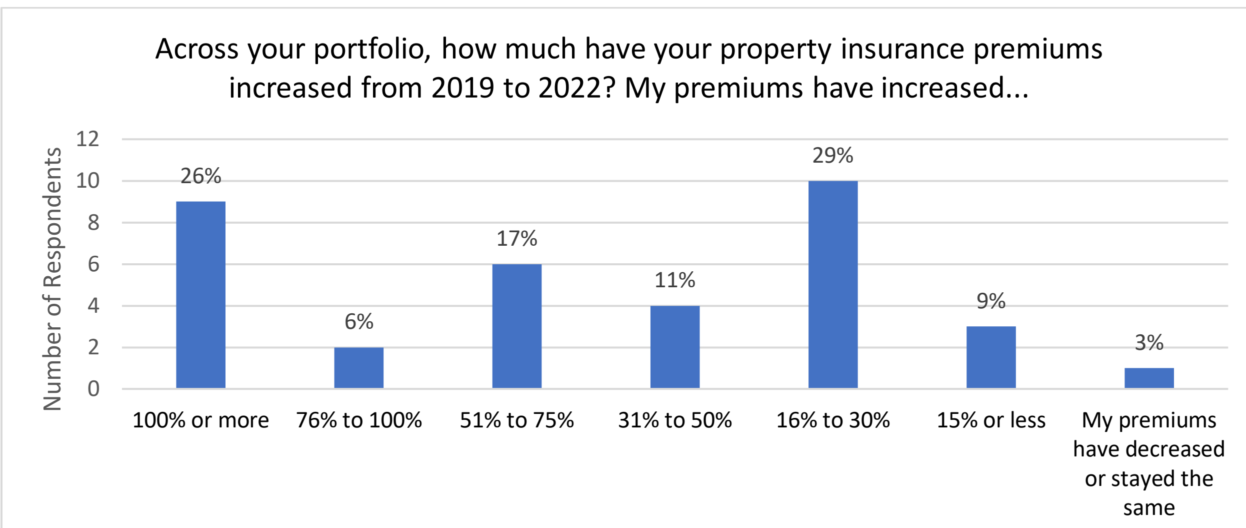
Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

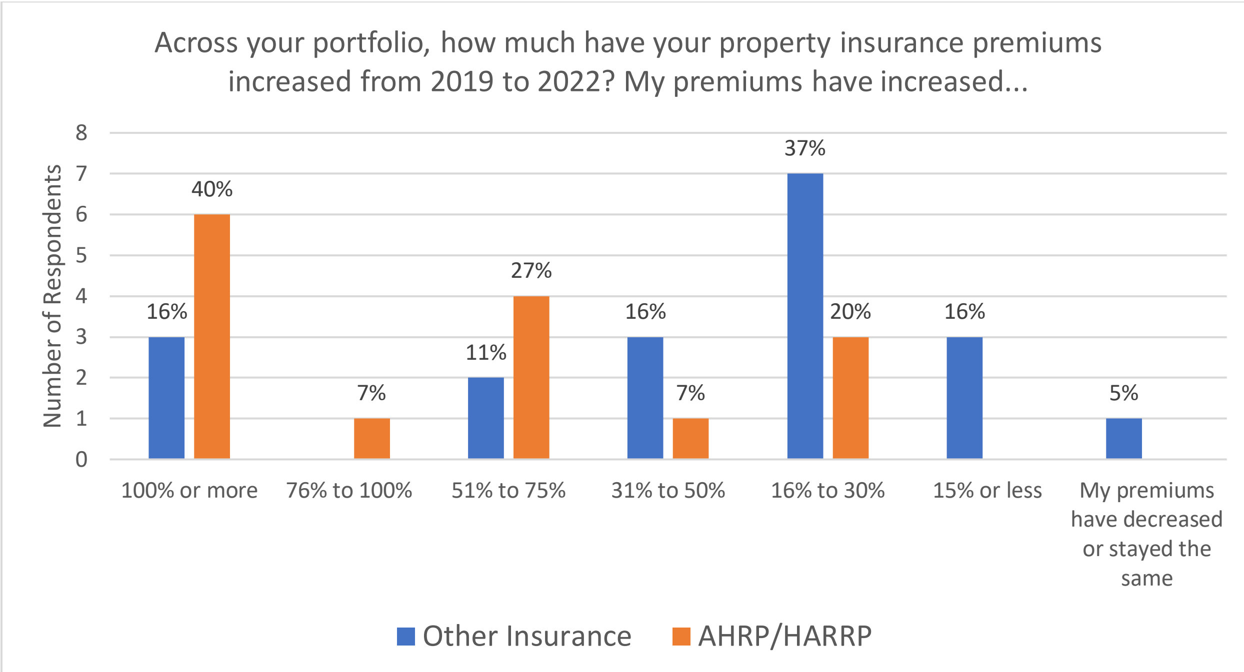
The State of Oregon has made a commitment to provide high needs housing and increase the inventory supply of affordable housing for Oregoinas. However, rising insurance rates are crushing the economic feasibility of developing affordable housing. Affordable housing developers, owners and operators are experiencing unprecedented challenges in financing and operating affordable rental housing due skyrocketing cost increases of casualty, general liability, and builders risk insurance. If not addressed soon, insurance premium inflation will cause irreparable harm to existing affordable housing communities and prevent the ability of developers to finance desperately needed new affordable housing supply.

In 2022 the Oregon Housing and Community Services (OHCS), with input from selected Public Housing Authorities (PHAs) and staff from the Oregon Department of Consumer and Business Services (DCBS) conducted an insurance premiums survey of its partners asking housing providers about recent changes to the cost of their insurance rates.

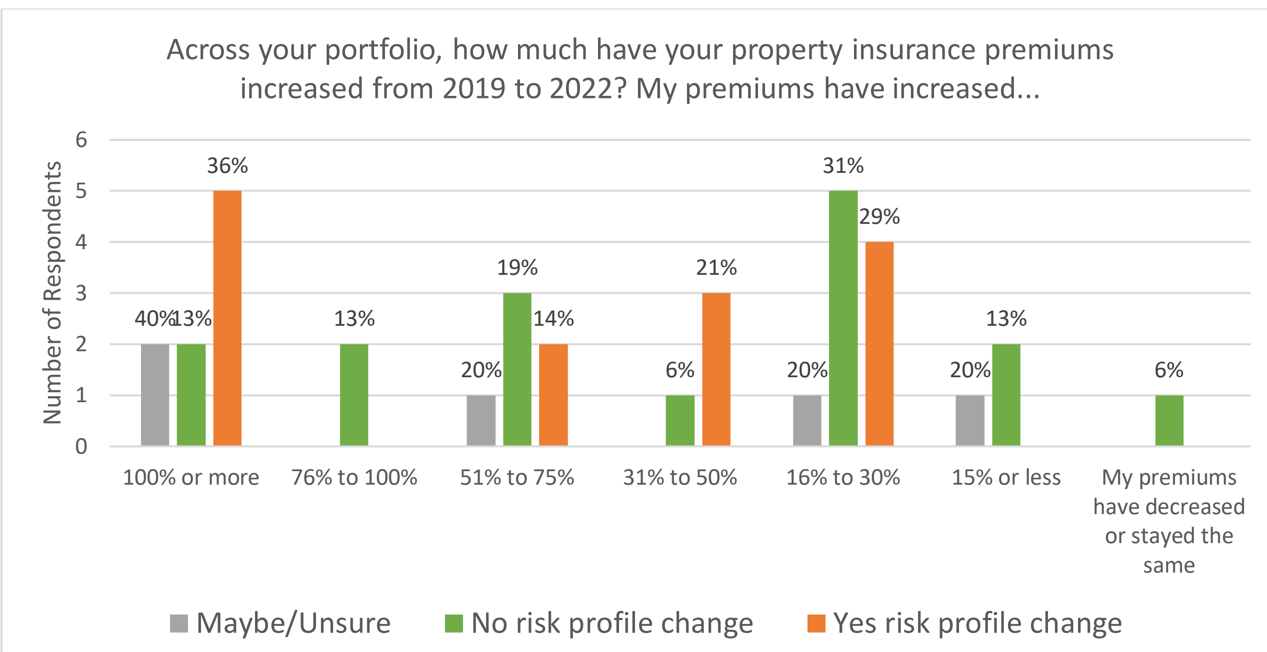
About 49% of respondents reported that their insurance premiums have increased 51% or more from 2019 to 2022, with 26% reporting increases of 100% or more.

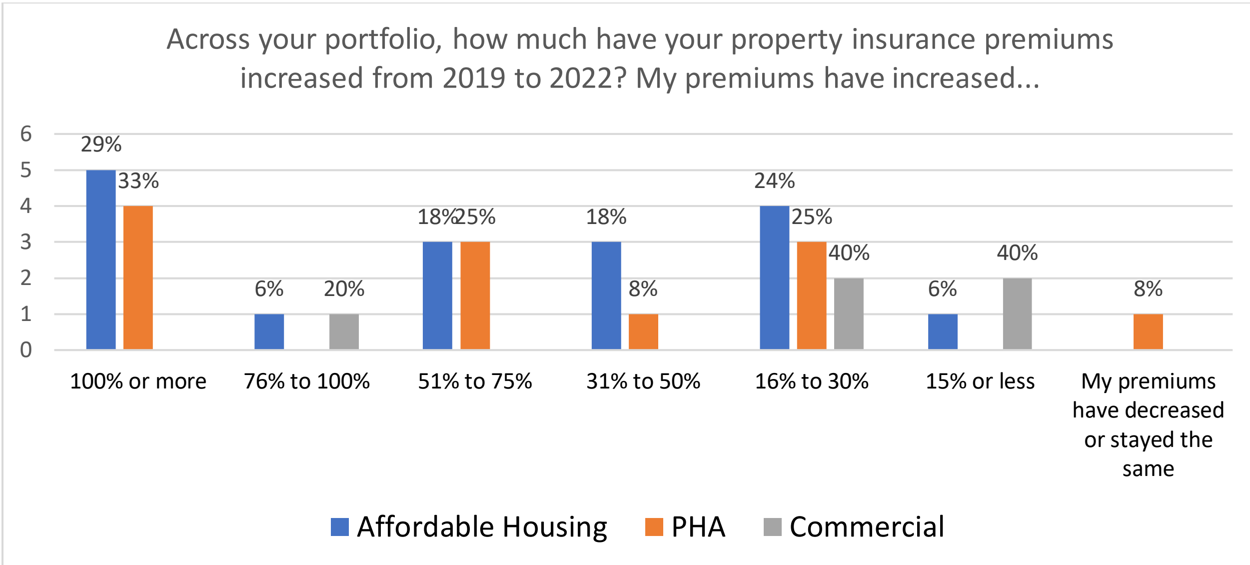


Agencies that did not have AHRP and/or HARRP as their insurance company tended to have lower increases. Roughly 58% of “other” insurance carriers had rate increases of 30% or lower, compared to 20% of agencies with AHRP and/or HARRP.



However, respondents reporting 100% or more premium increases are also more likely to have reported a change to their risk profile, such as filing bankruptcy or filing insurance claims.

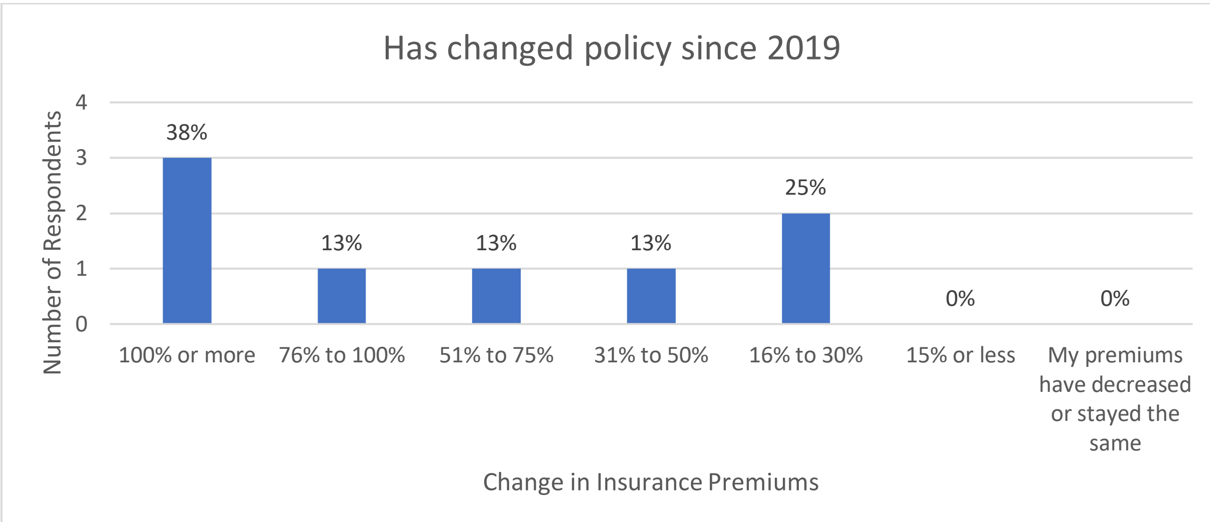




Insurance premium increases seem to be roughly similar between Public Housing Authorities (12 total PHAs) and other Affordable Housing providers (17 total). Only a small sample of five responses were from commercial developers, but their responses skewed toward lower increases than that of the PHAs or affordable housing providers. Respondents are taking several different actions to try to control these rising premium costs. The most popular actions were to not file claims to avoid impact to rates, as well as increasing maximum rents annually or tapping into operating reserves (respondents could select more than one option). Write-in responses included three respondents saying that they had gotten bids for competitive pricing, one respondent saying they would possibly sell some housing, and one (Home Forward) saying that they formed an insurance captive, which is a form of self-insurance. Home Forward was the only respondent that reported that their premiums "stayed the same or decreased" since 2019.

#	Answer	%	Count
1	Chose not to file claims to avoid impact to rates	23.94%	17
2	Increase Maximum Rents annually	19.72%	14
3	Tapping into Operating Reserves	11.27%	8
4	Increase deductibles	9.86%	7
5	Decrease operating expenses	8.45%	6
6	Defer maintenance	8.45%	6
7	Other actions (please describe)	8.45%	6
8	Cut staff or services	5.63%	4
9	Nothing	2.82%	2
10	Building/architectural upgrades	1.41%	1
11	Changing type of properties you build	0.00%	0
	Total	100%	71

When asked "Have you changed your policy since 2019?" Only 8 out of 35 (23%) said yes, with 23 saying no and 4 being unsure, suggesting that some agencies may find lower rates by asking for competitive bids and shopping for new providers. However, out of the eight respondents that have changed their policy since 2019, a higher proportion have had 100% or more increases in insurance premiums compared to the total group (38% vs. 26%).



When asked if they agreed or disagreed that they felt underinsured, 33% said that they somewhat or strongly agreed that they were underinsured, 38% were neutral, and 29% disagreed that they were underinsured (out of 24 responses). When asked "Do you feel that insurance premium increases could put your portfolio at risk of insolvency?", 54% said they strongly or somewhat agreed, 21% were neutral, and 25% somewhat or strongly disagreed.

Permanent Supportive Housing (PSH) Concerns

Eight respondents indicated that they had Permanent Supportive Housing (PSH) units, which are units with supportive services for chronically homeless clients. Five of the agencies said that they had experienced both more frequent claims and larger insurance claims with PSH units. When asked about other operational expenses concerning these agencies, write-in responses were as follows:

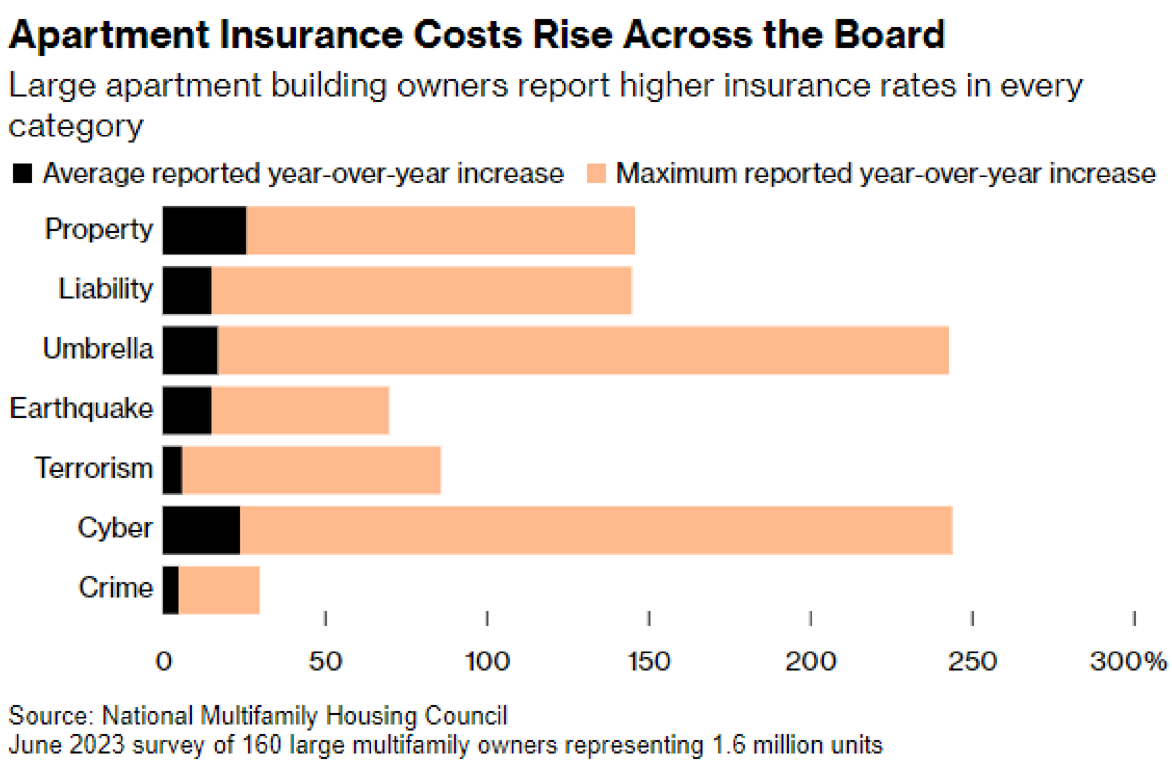
- "Security Patrols have been extremely costly and necessary, but often, our buildings can't even afford the low amount of coverage we currently employ. We need outside financial assistance to be able to cover more cost. We don't have enough on-site service coverage and need outside financial assistance, as well."
- "Site security"
- "Resident services costs are higher in PSH units to coordinate the numerous service providers and work with higher needs residents; Supportive services/case management exceeding costs and needs originally expected; Lack of qualified providers and higher salary than originally included in the proforma; High cost of security; High cost of insurance or being cancelled by insurance providers; High

cost of unit turns; and High cost and impact to multiple floors when fire sprinklers are triggered."

- "Services"
- "Security costs, uninsured damage and repair costs, non-payment of rent"
- "Above answers are tricky because we're not submitting insurance claims (unless absolutely necessary). So, we were not sure if we should answer based on actual losses or claims submitted. However, it seems deductibles are generally higher than most claims we might have made this year."

"SHA doesn't turn in most of the claims at PSH that we would in other cases to avoid being dropped in our portfolio all together. We have additional operating costs due to damage at turn over, additional cleaning, call out cleaning, unexpected or additional security costs, bio-cleaning when necessary, additional staff time or more dedicated staff time for fewer units and operational costs to support the supportive services that are coming in higher than expected due to inflation

According to a recent survey from the National Multi Housing Council, as of the first quarter of 2023, property insurance rates in the United States have increased for twenty-two consecutive quarters. Over the past three years, insurance premiums have skyrocketed, with many owners having experienced year-over-year premium increases from 30 to 100+ percent at affordable rental housing communities.[i]



Escalating insurance premiums are a significant contributor to rent inflation and broadly affect rental housing affordability across the country. Affordable housing operators are particularly vulnerable to insurance inflation because they cannot pass premium increases through to residents. The consequences of inaction could be dire. If the insurance marketplace is not stabilized, affordable housing production will decline dramatically at a time when our state desperately needs to add to its housing supply.

The situation is so dire that in June, the National Association of Home Builders adopted an emergency resolution urging policymakers at all levels of government to take action. Parts of the resolution reads, WHEREAS, private insurance companies are increasingly and dramatically raising insurance rates and deductibles for affordable housing and/or denying the sale of new insurance policies and the renewal of existing coverages required to obtain or maintain adequate coverages meeting mortgage requirements; WHEREAS, there is a severe shortage of affordable and low-income housing in the U.S. and this shortage is expected to continue for the foreseeable future.[ii]

In addition, the Housing Authorities of Oregon noted that the inability to obtain and retain affordable property insurance opens the entities to a liability (both in cost and in exposure) that they cannot afford – and will be forced to sell those units. Also, the inability to obtain and retain affordable property insurance creates barriers for refinancing to provide essential facility improvements.

2. Provide a quantitative, if possible, and qualitative overview of the housing production issue.

Excerpt from the Affordable Housing Tax Credit Coalition
The need for solutions to address rising insurance costs in response to stressors, such as climate change-related disasters, inflation, and climbing construction costs, is gaining media attention. The increased cost of risk is pushing many insurers to reduce coverage, increase premiums, or leave markets entirely. The National Multifamily Housing Council (NMHC) **reports** that property insurance premiums for multifamily housing have increased 26% on average over the last year. Because Housing Credit developments already operate under tight budget constraints due to their limited revenue from restricted rents, surging insurance premiums place additional strain on the financial feasibility of these developments.[iii]

The reinsurance and insurance programs currently available to affordable housing units in the state of Oregon and each program respective limitations are listed below.

- **Oregon FAIR Plan:** a non-profit association dedicated to providing an insurance market for owners of property in Oregon who are unable to secure coverage through normal insurance markets. *Limitations:* Coverage only provides the basic perils of Fire, Extended Coverage (EC), which includes Windstorm, Hail, Explosion, Riot or Civil Commotion, Aircraft, Vehicles, Smoke and Volcanic Eruption) and Vandalism and/or Malicious Mischief (VMM).

- **Safe Secure Cities and Counties Insurance (CIS Oregon):** CIS provides Property & Liability Coverage that is designed for the unique needs of local public entities. Comprehensive and coordinated coverage maximizes protection of resources and aids in financial recovery from accidental losses.

- **Synchrous Risk Management:** a member owned risk sharing group delivering low-cost property and liability insurance and risk management solutions for housing authorities and other providers of affordable housing in the West (Oregon, Washington, California and Nevada).

  - Public Housing Authority insurance coverage includes property, liability, automobile, fidelity, errors and omissions, and section 8 liability.
  - Affordable Housing Providers insurance is designed specifically for tax-credit partnerships, non-profit housing organizations, and housing authorities converting to non-governmental funding. *Limitations:* The primary coverages offered are property, liability, and tenant discrimination.

3. To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.

We have members of HPAC Finance Subcommittee who have had firsthand experience with the impacts escalating insurance coverage has had and is having on the preservation and production of affordable housing.

In addition, HPAC Finance Subcommittee conversed with the following SME's

- Housing Authorities of Oregon
- Oregon's Insurance Commissioner
- Oregon Insurance Guaranty Association | https://oregon.ncigf.org
- Jeff Hoch with JLH Risk Advisory Consulting Services
- Synchrous | https://synchrous.com/
  - Public Housing Authorities Risk Pool
  - Affordable Housing Risk Pool

4. Provide an overview of the expected outcome of the recommended action(s), including quantitative/qualitative context if available.

Access to affordable casualty, general liability, and builders risk insurance will have an immediate impact on the production of new affordable units and the preservation of existing affordable housing.

5. **Estimate of the time frame *(immediate, short, medium, long-term)*, feasibility *(low, medium, high)*, and cost *(low, medium, high)* for implementation of the recommended action(s).**

Time Frame	**Feasibility**	**Cost**
__ Long-term	__High	__ High
__ Medium-term	__ Medium	__ Medium
__Short-term	__ Low	__Low
__ Immediate		

6. **Provide a general overview of implementation, the who and how for the recommended action(s).**

   This recommendation will require directing the Oregon Department of Consumer and Business Services to conduct a market exam study of the barriers by which insurance coverage are impacting the production and preservation of affordable housing.

State funded risk pool. Create and fund mechanism for affordable housing providers to receive reimbursement for losses stemming from specified populations. Legislative action required for creation and funding; OARs required for definition of specified populations and procedure for reimbursement. Insurance Commissioner to confirm that underwriting takes into account risk sharing and premium reductions are appropriate.

Mandatory, binding arbitration. Amend ORS 36.400 et. seq. to require all civil disputes primarily arising from or through a residential landlord tenant relationship to be subject to mandatory, binding arbitration (if under $25,000). Related amendments to ORCP and local arbitration programs.

7. **Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).**

   - Access the National Association of Insurance Carriers report on the availability and affordability of liability and property coverage for non-profit organizations.[iv]

8. **Identify any major externalities, unknowns, tradeoffs, or potential unintended consequences.**

   Externalities

- Insurance can lead to loss or claim-creation not just by insureds themselves, but also by uninsured third parties. These externalities—which we term "third party moral hazard"—arise because insurance creates opportunities both to extract rents and to recover for otherwise unrecoverable losses.

Potential Unintended consequences

- The state will assume all the financial risks associated with the insurance policy. Assuming risk may result in payments for claims exceeding funds recouped from premiums.

Tradeoffs

- An increase in housing production.

Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.

- NMHC/Coalition Survey Shows Multifamily Insurance Costs Continue to Rise | https://www.nmhc.org/research-insight/research-report/nmhc-coalition-survey-shows-multifamily-insurance-costs-continue-to-rise/

- Senate Banking Committee Holds Hearing on Property Insurance Challenges | https://www.taxcreditcoalition.org/senate-banking-committee-holds-hearing-on-property-insurance-challenges/

- Rising Insurance Rates Are Crushing Affordable Housing Developers | https://www.bloomberg.com/news/articles/2023-09-12/insurance-rate-hikes-threaten-to-bust-the-us-apartment-building-boom?utm_source=website&utm_medium=share&utm_campaign=linkedin

- The 10 states where home insurance rates are rising the fastest—and none are New York or California https://www.bloomberg.com/news/articles/2023-09-12/insurance-rate-hikes-threaten-to-bust-the-us-apartment-building-boom?utm_source=website&utm_medium=share&utm_campaign=linkedin

- Reinsurance companies pull out of S. Deschutes County due to fire risk; homeowners hit by insurance premium hikes | https://ktvz.com/news/la-pine/2023/07/07/reinsurance-companies-pull-out-of-s-deschutes-county-due-to-fire-risk-homeowners-hit-by-insurance-premium-hikes/

- SC Insurance Reserve Fund | https://www.irf.sc.gov/about_us

- The Impact of Runaway Insurance Costs on Multifamily Investment | https://www.multihousingnews.com/the-impact-of-runaway-insurance-costs-on-multifamily-investment/

- Apartment owners call for insurance reform | https://www.multifamilydive.com/news/multifamily-expenses-insurance-cost-apartment-lending-climate-change/654364/

- Property Insurance Legislation | https://www.flgov.com/2022/05/26/governor-ron-desantis-signs-bipartisan-property-insurance-and-condominium-safety-reforms/

- Owners, developers sound off about higher insurance costs | https://www.multifamilydive.com/news/insurance-costs-apartment-industry-trends-climate-change/652504/

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[i] https://www.nmhc.org/research-insight/research-report/nmhc-coalition-survey-shows-multifamily-insurance-costs-continue-to-rise/

[ii] chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.nahb.org/-/media/NAHB/advocacy/docs/policy-resolutions/insurance/2023-6-no-11-insurance-options-for-rent-restricted-affordable-housing

[iii] https://www.taxcreditcoalition.org/rising-insurance-costs-gain-media-coverage/

[iv] https://content.naic.org/cmte_c.htm