

D R A F T

SUMMARY

Authorizes local governments to expedite inclusion within urban growth boundary of land dedicated to needed housing.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to urban growth boundary expansion to address low vacancy rates; creating new provisions; amending ORS 197.298, 197.309 and 197.825; and declaring an emergency.

Whereas Oregon has the lowest housing rental vacancy rate in the United States; and

Whereas rent prices in Oregon are expensive and rising faster than families can afford; and

Whereas Oregon's housing crisis can be fixed only by increasing housing availability; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2016 Act is added to and made a part of ORS 197.295 to 197.314.

SECTION 2. (1) Notwithstanding ORS 197.296 or 197.298 or a statewide planning goal addressing urbanization, a local government may amend its urban growth boundary to include land for needed housing if the local government determines that in the immediately preceding calendar year:

(a) The number of new households within the jurisdiction of the local government exceeded the number of new housing units within

1 the jurisdiction; and

2 (b) The average monthly vacancy rate for rental units within the
3 jurisdiction of the local government did not exceed six percent.

4 (2) Notwithstanding the priority for inclusion of land under ORS
5 197.298, a local government that amends its urban growth boundary
6 pursuant to this section shall prioritize the inclusion of land dedicated
7 to needed housing that is:

8 (a) Adjacent to the urban growth boundary;

9 (b) Served, or capable of being served within one year, by trans-
10 portation facilities, sewer and water service and other public facilities
11 that are necessary for the development of needed housing; and

12 (c) An adequate amount of buildable land to meet the projected
13 demand for new housing units for the jurisdiction of the local gov-
14 ernment.

15 (3) For the first 10 years following the amendment of an urban
16 growth boundary under this section, a local government shall ensure
17 that housing developed on the included land continues to be used to
18 provide needed housing through:

19 (a) Zoning restrictions; or

20 (b) Regulations, provisions or conditions described in ORS 197.309
21 (2).

22 (4) A decision by a local government to amend its urban growth
23 boundary pursuant to this section is subject to approval by:

24 (a) The city to which the land included by the amendment will be
25 annexed; and

26 (b) The owners of land included by the amendment, by unanimous
27 consent.

28 (5) For the first 10 years following the amendment of an urban
29 growth boundary under this section, a local government may not:

30 (a) Rezone land included within its urban growth boundary pursu-
31 ant to this section to allow a use other than the use allowed under this

section.

(b) Convert land included within an urban growth boundary pursuant to this section for uses other than needed housing.

(6) Upon receipt of the approvals required under subsection (4) of this section, land included within an urban growth boundary pursuant to this section is considered annexed to the city with the longest contiguous adjacent city limit.

SECTION 3. ORS 197.298 is amended to read:

197.298. (1) In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary of Metro except under the following priorities:

(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.

(2) Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(3) Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection

(1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;

(b) Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or

(c) Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

(4) When a city includes land within the urban growth boundary of the city pursuant to ORS 197.295 to 197.314, the city shall prioritize lands for inclusion as provided in ORS 197A.320.

(5) Subsections (1) to (3) of this section do not apply to inclusion within an urban growth boundary of land dedicated to needed housing under section 2 of this 2016 Act.

SECTION 4. ORS 197.309 is amended to read:

197.309. (1) Except as provided in subsection (2) of this section, a [*city, county or metropolitan service district*] **local government** may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178[,] a requirement, that has the effect of establishing the sales price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale to any particular class or group of purchasers.

(2) This section does not limit the authority of a [*city, county or metropolitan service district*] **local government** to:

(a) Adopt or enforce a land use regulation, functional plan provision or condition of approval creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or condition designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

SECTION 5. ORS 197.825 is amended to read:

197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the Land Use Board of Appeals shall have exclusive jurisdiction to review any land use decision or limited land use decision of a local government, special district or a state agency in the manner provided in ORS 197.830 to 197.845.

(2) The jurisdiction of the board:

(a) Is limited to those cases in which the petitioner has exhausted all remedies available by right before petitioning the board for review;

(b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Appeals;

(c) Does not include a local government decision that is:

(A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.651 or a matter arising out of a local government decision submitted to the department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director's sole discretion, transfers the matter to the board; or

(B) Subject to the review authority of the department under ORS 197.430, 197.445, 197.450 or 197.455 or a matter related to a local government decision subject to the review authority of the department under ORS 197.430, 197.445, 197.450 or 197.455;

(d) Does not include those land use decisions of a state agency over which the Court of Appeals has jurisdiction for initial judicial review under ORS 183.400, 183.482 or other statutory provisions;

(e) Does not include any rules, programs, decisions, determinations or activities carried out under ORS 527.610 to 527.770, 527.990 (1) and 527.992;

(f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River Gorge National Scenic Area Act, P.L. 99-663; and

1 (g) Does not include review of expedited land divisions under ORS 197.360.

2 (3) Notwithstanding subsection (1) of this section, the circuit courts of
3 this state retain jurisdiction:

4 (a) To grant declaratory, injunctive or mandatory relief in proceedings
5 arising from decisions described in ORS 197.015 (10)(b) **or section 2 of this**
6 **2016 Act** or proceedings brought to enforce the provisions of an adopted
7 comprehensive plan or land use regulations; and

8 (b) To enforce orders of the board in appropriate proceedings brought by
9 the board or a party to the board proceeding resulting in the order.

10 **SECTION 6. This 2016 Act being necessary for the immediate pres-**
11 **ervation of the public peace, health and safety, an emergency is de-**
12 **clared to exist, and this 2016 Act takes effect on its passage.**