

REVENUE: May have revenue impact, statement not yet issued
FISCAL: May have fiscal impact, statement not yet issued

Action:	Do Pass as Amended, Be Printed Engrossed, and Be Referred to the Committee on Ways and Means
Vote:	6 - 4 - 0
Yeas:	Clem, Johnson, Roblan, Schrader, Macpherson, Prozanski
Nays:	Beyer, Garrard, George L., Smith P.
Exc.:	0
Prepared By:	Patrick Brennan, Administrator
Meeting Dates:	4/17, 4/24

WHAT THE MEASURE DOES: Modifies process for compensation of landowners for lost value due to land use regulations created in Ballot Measure 37. Allows persons who have already submitted a claim for compensation on land entirely outside an urban growth boundary and city limits to select one of three pathways: (1) The unconditional path, or “express lane”, which allows the claimant to establish up to three home sites on the property; (2) The conditional pathway allows the claimant to establish between four and ten home sites on the property; or (3) The vested rights pathway, which allows the claimant to continue to pursue their claim under Ballot Measure 37 if they have a vested right as of the effective date of the measure. Specifies requirements for the express lane and conditional pathways. Establishes timelines for electing which pathway to pursue and for the processing of claims. Provides for transferability of development rights granted through the express and conditional pathways and specifies that development must be carried out within 10 years following transfer of property to new owner. Revises Ballot Measure 37 process for claims against future land use regulations. Restricts claims under Ballot Measure 37 to regulations affecting home sites, farm or forest practices. Limits relief under Ballot Measure 37 to development rights for home sites for dwellings or monetary compensation. Creates position of Compensation and Conservation Ombudsman, to be appointed by Land Conservation and Development Commission, to assist landowners with submission of claims. Clarifies other provisions within Ballot Measure 37. Declares an emergency and takes effect upon passage. Refers measure to voters for approval or rejection.

ISSUES DISCUSSED:

- Classifications of high value farmland and soil types
- Methods for determining loss of value due to regulation, including recapture of deferred taxes
- Number of claimants to whom the new methodology would apply
- How claims would be processed under new methodology
- Effect of development on groundwater restricted areas
- Exemptions for federal laws, health and safety, and nuisances carried over from Ballot Measure 37
- Purpose and method of clustering of home sites
- Threshold of loss required for claims against future regulation
- Ombudsman position
- Referral to voters

EFFECT OF COMMITTEE AMENDMENT: Replaces measure.

BACKGROUND: Oregon’s land use planning system was created by the Legislative Assembly with the passage of Senate Bill 100 in 1973. Ballot Measure 37, approved by voters during the 2004 General Election, requires that governments pay financial compensation or waive regulation if a regulation restricting the use of that landowner’s real property has resulted in a reduction in value of that property.

House Bill 3540-A replaces the waiver system created by Ballot Measure 37 with just compensation in the form of limited home site approvals. Persons who have submitted claims under Ballot Measure 37 would be given an opportunity to elect between three options:

- *Express Lane* – claimants wishing to establish up to three home sites – claimant must be the owner of the property; property must be outside of city limits and urban growth boundary (UGB); all owners of property must consent to the claim; must have been able to lawfully build the number of home sites sought at the time of ownership
- *Conditional Process* – claimants wishing to establish between four and ten home sites – same requirements as for express lane with additional requirements; must demonstrate loss of value due to land use regulation, adjusted for inflation, equal to or greater than the value of number of home sites sought (determined by appraisal of land one year prior to and one year following enactment of the regulation)
- *Vested Rights* – Claimants who believe that they have vested rights to carry out their Ballot Measure 37 claim are allowed to continue

Claimants would be provided a specified amount of time to elect between the different pathways. The Department of Land Conservation and Development (DLCDC) would provide notice to claimants and to neighboring property owners, local governments, and water suppliers as appropriate, and process all claims outside of cities and UGBs would be made, except in cases where the only applicable land use regulation is a county regulation, in which case the applicable county would process the claim (claims inside of a UGB would be made to the applicable local government). Claims under the express lane and conditional pathways would be limited to home sites. Once approved, development rights under House Bill 3540-A would be fully transferable; however, once the original owner transferred the property the new owner would have 10 years to exercise those development rights. Relief under House Bill 3540-A would be limited to development rights for home sites of single-family dwellings or monetary compensation; the measure does not allow for claims seeking commercial or industrial uses. Claims can be made only against regulations that restrict home sites or farm or forest practices.

House Bill 3540-A outlines the process by which claimants seeking between 4-10 home sites would need to prove that their property had been reduced in value, adjusted for interest on their loss, by an amount equal to or greater than the number of home sites they are seeking to establish.

House Bill 3540-A contains additional provisions related to where home sites can be placed on property. Claimants whose property is made up in part of high-value farmland (defined in statute and in the measure) would be required to situate the development on the portions that are not high-value farmland; if the claimant's entire parcel consists of high-value farmland zoned exclusive farm use, or is zoned forest use and is high-value forestland, they would be limited to the express lane process. Claimants whose land lies within certain groundwater restricted areas would be similarly limited to the express lane process.

House Bill 3540-A outlines how Ballot Measure 37 would operate for claims made against future regulations. Claims would be restricted to regulations restricting the residential uses or farm or forest practices. To be eligible, the claimant would need to demonstrate a loss of value of at least 10 percent as a result of the regulation.

House Bill 3540-A also revises the language within Ballot Measure 37 (ORS 197.352) for legislative form and style and for clarity. It also creates the position of Compensation and Conservation Ombudsman within DLCDC, to be appointed by the Governor, to facilitate the preparation and processing of claims. Finally, the measure would be referred to voters for their approval or rejection at a special election.

This summary has not been adopted or officially endorsed by action of the committee.