

Minority Report
B-Engrossed
House Bill 3025

Ordered by the Senate May 25
Including House Amendments dated May 2 and Senate Minority Report
Amendments dated May 25

Sponsored by nonconcurring members of the Senate Committee on Environment and Natural Resources: Senators
ATKINSON, BEYER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies definition of "land use decision" and "limited land use decision" to exclude decision of local government that approves or withholds approval of final subdivision or partition plat or that determines whether final subdivision or partition plat substantially conforms to tentative subdivision or partition plan.

Extends deadline from 180 days to 360 days for public entity to compensate property owner with valid claim under Ballot Measure 37 (2004) if claim was filed by November 1, 2006, and before December 5, 2006.

Stipulates that minimum lot size for Ballot Measure 37 (2004) waiver must be equal to or larger than median size of tax lots contained entirely within one mile of perimeter of proposed subdivision or 20 acres, whichever is smaller. Defines "waiver." Allows waiver to be transferred with property. Provides that upon disqualification from special assessment based on change in use related to waiver, additional taxes be transferred to Department of Land Conservation and Development for deposit in Compensation and Conservation Fund.

Establishes Compensation and Conservation Fund. Continuously appropriates moneys in fund to Department of Land Conservation and Development for purposes of reimbursing owners for costs incurred to obtain waivers if legislative action retroactively reduces uses authorized under waiver and paying just compensation for claims.

Modifies definitions of "owner" and "land use regulation." Provides that time owner acquired property means earliest date from which owner has owned, or has held continuous ownership interest in, property either individually or by legal entity, provided property owner or family member has continuously retained ownership or voting control.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to land use planning; creating new provisions; amending ORS 197.015 and 197.352; appro-
3 priating money; and declaring an emergency.

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

5 **SECTION 1.** ORS 197.015 is amended to read:

6 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

7 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and
8 land use regulations, land use regulation or plan or regulation amendment complies with the goals
9 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
10 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
11 work plan comply with the statewide planning goals.

12 (2) "Board" means the Land Use Board of Appeals.

13 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

2 (4) "Commission" means the Land Conservation and Development Commission.

3 (5) "Committee" means the Joint Legislative Committee on Land Use.

4 (6) "Comprehensive plan" means a generalized, coordinated land use map and policy statement
5 of the governing body of a local government that interrelates all functional and natural systems and
6 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
7 portation systems, educational facilities, recreational facilities, and natural resources and air and
8 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
9 geographic area covered and functional and natural activities and systems occurring in the area
10 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-
11 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
12 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
13 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
14 water, both surface and subsurface, and the air.

15 (7) "Department" means the Department of Land Conservation and Development.

16 (8) "Director" means the Director of the Department of Land Conservation and Development.

17 (9) "Goals" means the mandatory statewide planning standards adopted by the commission pur-
18 suant to ORS chapters 195, 196 and 197.

19 (10) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
20 adoption and implementation of comprehensive plans in compliance with goals and to aid state
21 agencies and special districts in the preparation, adoption and implementation of plans, programs
22 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state
23 agencies, cities, counties and special districts to a single approach.

24 (11) "Land use decision":

25 (a) Includes:

26 (A) A final decision or determination made by a local government or special district that con-
27 cerns the adoption, amendment or application of:

28 (i) The goals;

29 (ii) A comprehensive plan provision;

30 (iii) A land use regulation; or

31 (iv) A new land use regulation;

32 (B) A final decision or determination of a state agency other than the commission with respect
33 to which the agency is required to apply the goals; or

34 (C) A decision of a county planning commission made under ORS 433.763;

35 (b) Does not include a decision of a local government:

36 (A) That is made under land use standards that do not require interpretation or the exercise
37 of policy or legal judgment;

38 (B) That approves or denies a building permit issued under clear and objective land use stan-
39 dards;

40 (C) That is a limited land use decision;

41 (D) That determines final engineering design, construction, operation, maintenance, repair or
42 preservation of a transportation facility that is otherwise authorized by and consistent with the
43 comprehensive plan and land use regulations;

44 (E) That is an expedited land division as described in ORS 197.360; *[or]*

45 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal

1 of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
2 under ORS 480.410 to 480.460; or

3 **(G) That approves or denies approval of a final subdivision or partition plat or that de-**
4 **termines whether a final subdivision or partition plat substantially conforms to the tentative**
5 **subdivision or partition plan;**

6 (c) Does not include a decision by a school district to close a school;

7 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or
8 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120
9 hours in any three-month period; and

10 (e) Does not include:

11 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;
12 or

13 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
14 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

15 (12) "Land use regulation" means any local government zoning ordinance, land division ordi-
16 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
17 implementing a comprehensive plan.

18 (13) "Limited land use decision" *[is]*:

19 **(a) Means** a final decision or determination made by a local government pertaining to a site
20 within an urban growth boundary that concerns:

21 *[(a)]* **(A)** The approval or denial of a tentative subdivision or partition plan, as described in ORS
22 92.040 (1).

23 *[(b)]* **(B)** The approval or denial of an application based on discretionary standards designed to
24 regulate the physical characteristics of a use permitted outright, including but not limited to site
25 review and design review.

26 **(b) Does not mean a final decision made by a local government pertaining to a site within**
27 **an urban growth boundary that concerns approval or denial of a final subdivision or partition**
28 **plat or that determines whether a final subdivision or partition plat substantially conforms**
29 **to the tentative subdivision or partition plan.**

30 (14) "Local government" means any city, county or metropolitan service district formed under
31 ORS chapter 268 or an association of local governments performing land use planning functions
32 under ORS 195.025.

33 (15) "Metro" means a metropolitan service district organized under ORS chapter 268.

34 (16) "Metro planning goals and objectives" means the land use goals and objectives that a met-
35 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
36 stitute a comprehensive plan.

37 (17) "Metro regional framework plan" means the regional framework plan required by the 1992
38 Metro Charter or its separate components. Neither the regional framework plan nor its individual
39 components constitute a comprehensive plan.

40 (18) "New land use regulation" means a land use regulation other than an amendment to an
41 acknowledged land use regulation adopted by a local government that already has a comprehensive
42 plan and land regulations acknowledged under ORS 197.251.

43 (19) "Person" means any individual, partnership, corporation, association, governmental subdi-
44 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
45 opment Commission or its designee is considered a person for purposes of appeal under ORS

1 chapters 195 and 197.

2 (20) "Special district" means any unit of local government, other than a city, county, metropol-
3 itan service district formed under ORS chapter 268 or an association of local governments per-
4 forming land use planning functions under ORS 195.025, authorized and regulated by statute and
5 includes but is not limited to water control districts, domestic water associations and water coop-
6 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
7 school districts, hospital districts, mass transit districts and sanitary districts.

8 (21) "Voluntary association of local governments" means a regional planning agency in this
9 state officially designated by the Governor pursuant to the federal Office of Management and Budget
10 Circular A-95 as a regional clearinghouse.

11 (22) "Wetlands" means those areas that are inundated or saturated by surface or ground water
12 at a frequency and duration that are sufficient to support, and that under normal circumstances do
13 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

14 **SECTION 2.** ORS 197.015, as amended by section 8, chapter 829, Oregon Laws 2005, is amended
15 to read:

16 197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

17 (1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and
18 land use regulations, land use regulation or plan or regulation amendment complies with the goals
19 or certifies that Metro land use planning goals and objectives, Metro regional framework plan,
20 amendments to Metro planning goals and objectives or amendments to the Metro regional frame-
21 work plan comply with the statewide planning goals.

22 (2) "Board" means the Land Use Board of Appeals.

23 (3) "Carport" means a stationary structure consisting of a roof with its supports and not more
24 than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

25 (4) "Commission" means the Land Conservation and Development Commission.

26 (5) "Committee" means the Joint Legislative Committee on Land Use.

27 (6) "Comprehensive plan" means a generalized, coordinated land use map and policy statement
28 of the governing body of a local government that interrelates all functional and natural systems and
29 activities relating to the use of lands, including but not limited to sewer and water systems, trans-
30 portation systems, educational facilities, recreational facilities, and natural resources and air and
31 water quality management programs. "Comprehensive" means all-inclusive, both in terms of the
32 geographic area covered and functional and natural activities and systems occurring in the area
33 covered by the plan. "General nature" means a summary of policies and proposals in broad catego-
34 ries and does not necessarily indicate specific locations of any area, activity or use. A plan is "co-
35 ordinated" when the needs of all levels of governments, semipublic and private agencies and the
36 citizens of Oregon have been considered and accommodated as much as possible. "Land" includes
37 water, both surface and subsurface, and the air.

38 (7) "Department" means the Department of Land Conservation and Development.

39 (8) "Director" means the Director of the Department of Land Conservation and Development.

40 (9) "Goals" means the mandatory statewide planning standards adopted by the commission pur-
41 suant to ORS chapters 195, 196 and 197.

42 (10) "Guidelines" means suggested approaches designed to aid cities and counties in preparation,
43 adoption and implementation of comprehensive plans in compliance with goals and to aid state
44 agencies and special districts in the preparation, adoption and implementation of plans, programs
45 and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state

1 agencies, cities, counties and special districts to a single approach.

2 (11) "Land use decision":

3 (a) Includes:

4 (A) A final decision or determination made by a local government or special district that con-
5 cerns the adoption, amendment or application of:

6 (i) The goals;

7 (ii) A comprehensive plan provision;

8 (iii) A land use regulation; or

9 (iv) A new land use regulation;

10 (B) A final decision or determination of a state agency other than the commission with respect
11 to which the agency is required to apply the goals; or

12 (C) A decision of a county planning commission made under ORS 433.763;

13 (b) Does not include a decision of a local government:

14 (A) That is made under land use standards that do not require interpretation or the exercise
15 of policy or legal judgment;

16 (B) That approves or denies a building permit issued under clear and objective land use stan-
17 dards;

18 (C) That is a limited land use decision;

19 (D) That determines final engineering design, construction, operation, maintenance, repair or
20 preservation of a transportation facility that is otherwise authorized by and consistent with the
21 comprehensive plan and land use regulations;

22 (E) That is an expedited land division as described in ORS 197.360; [*or*]

23 (F) That approves, pursuant to ORS 480.450 (7), the siting, installation, maintenance or removal
24 of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshal
25 under ORS 480.410 to 480.460; **or**

26 **(G) That approves or denies approval of a final subdivision or partition plat or that de-**
27 **termines whether a final subdivision or partition plat substantially conforms to the tentative**
28 **subdivision or partition plan;**

29 (c) Does not include a decision by a school district to close a school;

30 (d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or
31 other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120
32 hours in any three-month period; and

33 (e) Does not include:

34 (A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;
35 or

36 (B) Any local decision or action taken on an application subject to ORS 215.427 or 227.178 after
37 a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.

38 (12) "Land use regulation" means any local government zoning ordinance, land division ordi-
39 nance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for
40 implementing a comprehensive plan.

41 (13) "Limited land use decision" [*is*]:

42 **(a) Means** a final decision or determination made by a local government pertaining to a site
43 within an urban growth boundary that concerns:

44 [*(a)*] **(A)** The approval or denial of a tentative subdivision or partition plan, as described in ORS
45 92.040 (1).

1 [(b)] (B) The approval or denial of an application based on discretionary standards designed to
2 regulate the physical characteristics of a use permitted outright, including but not limited to site
3 review and design review.

4 (b) Does not mean a final decision made by a local government pertaining to a site within
5 an urban growth boundary that concerns approval or denial of a final subdivision or partition
6 plat or that determines whether a final subdivision or partition plat substantially conforms
7 to the tentative subdivision or partition plan.

8 (14) “Local government” means any city, county or metropolitan service district formed under
9 ORS chapter 268 or an association of local governments performing land use planning functions
10 under ORS 195.025.

11 (15) “Metro” means a metropolitan service district organized under ORS chapter 268.

12 (16) “Metro planning goals and objectives” means the land use goals and objectives that a met-
13 ropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not con-
14 stitute a comprehensive plan.

15 (17) “Metro regional framework plan” means the regional framework plan required by the 1992
16 Metro Charter or its separate components. Neither the regional framework plan nor its individual
17 components constitute a comprehensive plan.

18 (18) “New land use regulation” means a land use regulation other than an amendment to an
19 acknowledged land use regulation adopted by a local government that already has a comprehensive
20 plan and land regulations acknowledged under ORS 197.251.

21 (19) “Person” means any individual, partnership, corporation, association, governmental subdi-
22 vision or agency or public or private organization of any kind. The Land Conservation and Devel-
23 opment Commission or its designee is considered a person for purposes of appeal under ORS
24 chapters 195 and 197.

25 (20) “Special district” means any unit of local government, other than a city, county, metropol-
26 itan service district formed under ORS chapter 268 or an association of local governments per-
27 forming land use planning functions under ORS 195.025, authorized and regulated by statute and
28 includes but is not limited to water control districts, domestic water associations and water coop-
29 eratives, irrigation districts, port districts, regional air quality control authorities, fire districts,
30 school districts, hospital districts, mass transit districts and sanitary districts.

31 (21) “Urban unincorporated community” means an area designated in a county’s acknowledged
32 comprehensive plan as an urban unincorporated community after December 5, 1994.

33 (22) “Voluntary association of local governments” means a regional planning agency in this
34 state officially designated by the Governor pursuant to the federal Office of Management and Budget
35 Circular A-95 as a regional clearinghouse.

36 (23) “Wetlands” means those areas that are inundated or saturated by surface or ground water
37 at a frequency and duration that are sufficient to support, and that under normal circumstances do
38 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

39 **SECTION 3. The amendments to ORS 197.015 by sections 1 and 2 of this 2007 Act apply**
40 **to a decision by a local government on or after the effective date of this 2007 Act.**

41 **SECTION 4. (1) Sections 5 to 7 of this 2007 Act are added to and made a part of ORS**
42 **chapter 195.**

43 **(2) ORS 197.352 is added to and made a part of sections 5 to 7 of this 2007 Act.**

44 **SECTION 5. As used in sections 5 to 7 of this 2007 Act:**

45 **(1) “Land use regulation” has the meaning given that term in ORS 197.352.**

1 (2) "Owner" has the meaning given that term in ORS 197.352.

2 (3) "Public entity" has the meaning given that term in ORS 197.352.

3 (4) "Waiver" means an action or decision of a public entity under ORS 197.352 to modify,
4 remove or not apply one or more land use regulations to allow an owner to use private real
5 property for a use permitted when the owner acquired the property.

6 **SECTION 6.** (1) For a claim for compensation filed on or after November 1, 2006, and
7 before December 5, 2006, the 180-day periods under ORS 197.352 (4) and (6) are extended by
8 180 days.

9 (2) If a public entity grants a waiver under ORS 197.352 (8) on or after the effective date
10 of this 2007 Act that authorizes a division of land under ORS 92.010 to 92.190, the minimum
11 size of lots or parcels created must be equal to or larger than the median size of the tax lots
12 contained entirely within one mile of the perimeter of the proposed subdivision or partition
13 or must be 20 acres, whichever is smaller.

14 (3) After a public entity grants the waiver, the rights to use private real property pro-
15 vided by the waiver run with the land and may be transferred with the property.

16 (4) Upon disqualification from special assessment as described in ORS 308A.703 based on
17 a change in use related to a waiver, the additional taxes collected by county tax collectors
18 pursuant to ORS 308A.700 to 308A.733, after refunds, must be transferred to the Department
19 of Land Conservation and Development for deposit in the Compensation and Conservation
20 Fund established under section 7 of this 2007 Act.

21 **SECTION 7.** (1) The Compensation and Conservation Fund is established in the State
22 Treasury, separate and distinct from the General Fund. Interest earned by the moneys in the
23 Compensation and Conservation Fund shall be credited to the fund. The fund consists of
24 moneys received by the Department of Land Conservation and Development under section 6
25 of this 2007 Act and other moneys made available to the department for the purposes de-
26 scribed in subsection (2) of this section.

27 (2) Moneys in the fund are continuously appropriated to the department for the purposes
28 of:

29 (a) Reimbursing owners for the costs incurred to obtain waivers based on valid claims
30 for compensation if legislative action retroactively reduces the uses that may be authorized
31 under a waiver for a claim filed before the effective date of this 2007 Act; and

32 (b) Paying just compensation for claims.

33 **SECTION 8.** ORS 197.352 is amended to read:

34 197.352. *[The following provisions are added to and made a part of ORS chapter 197:]*

35 (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regu-
36 lation enacted prior to December 2, 2004, that restricts the use of private real property or any in-
37 terest therein and has the effect of reducing the fair market value of the property, or any interest
38 therein, then the owner of the property shall be paid just compensation.

39 (2) Just compensation shall be equal to the reduction in the fair market value of the affected
40 property interest resulting from enactment or enforcement of the land use regulation as of the date
41 the owner makes written demand for compensation under this section.

42 (3) Subsection (1) of this section shall not apply to land use regulations:

43 (A) Restricting or prohibiting activities commonly and historically recognized as public nui-
44 sances under common law. This subsection shall be construed narrowly in favor of a finding of
45 compensation under this section;

1 (B) Restricting or prohibiting activities for the protection of public health and safety, such as
2 fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and
3 pollution control regulations;

4 (C) To the extent the land use regulation is required to comply with federal law;

5 (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or
6 performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights
7 provided by the Oregon or United States Constitutions; or

8 (E) Enacted prior to the date of acquisition of the property by the owner or a family member
9 of the owner who owned the subject property prior to acquisition or inheritance by the owner,
10 whichever occurred first.

11 (4) **Subject to section 6 (1) of this 2007 Act**, just compensation under subsection (1) of this
12 section shall be due the owner of the property if the land use regulation continues to be enforced
13 against the property 180 days after the owner of the property makes written demand for compen-
14 sation under this section to the public entity enacting or enforcing the land use regulation.

15 (5) For claims arising from land use regulations enacted prior to December 2, 2004, written de-
16 mand for compensation under subsection (4) shall be made within two years of December 2, 2004,
17 or the date the public entity applies the land use regulation as an approval criteria to an application
18 submitted by the owner of the property, whichever is later. For claims arising from land use regu-
19 lations enacted after December 2, 2004, written demand for compensation under subsection (4) shall
20 be made within two years of the enactment of the land use regulation, or the date the owner of the
21 property submits a land use application in which the land use regulation is an approval criteria,
22 whichever is later.

23 (6) **Subject to section 6 (1) of this 2007 Act**, if a land use regulation continues to apply to the
24 subject property more than 180 days after the present owner of the property has made written de-
25 mand for compensation under this section, the present owner of the property, or any interest
26 therein, shall have a cause of action for compensation under this section in the circuit court in
27 which the real property is located, and the present owner of the real property shall be entitled to
28 reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred to collect the
29 compensation.

30 (7) A metropolitan service district, city, or county, or state agency may adopt or apply proce-
31 dures for the processing of claims under this section, but in no event shall these procedures act as
32 a prerequisite to the filing of a compensation claim under subsection (6) of this section, nor shall
33 the failure of an owner of property to file an application for a land use permit with the local gov-
34 ernment serve as grounds for dismissal, abatement, or delay of a compensation claim under sub-
35 section (6) of this section.

36 (8) Notwithstanding any other state statute or the availability of funds under subsection (10) of
37 this section, in lieu of payment of just compensation under this section, the governing body respon-
38 sible for enacting the land use regulation may modify, remove, or not to apply the land use regu-
39 lation or land use regulations to allow the owner to use the property for a use permitted at the time
40 the owner acquired the property, **subject to section 6 (2) of this 2007 Act**.

41 (9) A decision by a governing body under this section shall not be considered a land use decision
42 as defined in ORS 197.015 (11).

43 (10) Claims made under this section shall be paid from funds, if any, specifically allocated by the
44 legislature, city, county, or metropolitan service district for payment of claims under this section.
45 Notwithstanding the availability of funds under this subsection, a metropolitan service district, city,

1 county, or state agency shall have discretion to use available funds to pay claims or to modify, re-
2 move, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this
3 section. If a claim has not been paid within two years from the date on which it accrues, the owner
4 shall be allowed to use the property as permitted at the time the owner acquired the property.

5 (11) Definitions - for purposes of this section:

6 (A) "Family member" shall include the wife, husband, son, daughter, mother, father, brother,
7 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt,
8 uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property,
9 an estate of any of the foregoing family members, or a legal entity owned by any one or combination
10 of these family members or the owner of the property.

11 (B) "Land use regulation" shall include:

12 (i) Any statute regulating the use of land or any interest therein;

13 (ii) Administrative rules and goals of the Land Conservation and Development Commission;

14 (iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and
15 transportation ordinances;

16 (iv) Metropolitan service district regional framework plans, functional plans, planning goals and
17 objectives; [*and*]

18 (v) Statutes and administrative rules regulating farming [*and forest*] practices; **and**

19 **(vi) Statutes and administrative rules regulating forest practices that are primarily in-**
20 **tended to protect public health and safety or that directly implement or apply a federal law**
21 **without discretion as to the manner of implementation or application of the federal law.**

22 (C) "Owner" is the present owner of the property, or any interest therein, **and a spouse who**
23 **was the spouse when the property, or the interest, was acquired without regard to whether**
24 **the spouse is named on the instrument conveying the property, or the interest.**

25 (D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.

26 **(E) "The time the owner acquired the property" means the earliest date from which the**
27 **owner has owned, or has held a continuous ownership interest in, the property either indi-**
28 **vidually or by ownership of a legal entity to or from which the owner may have transferred**
29 **a title interest in the property as long as the owner or a family member of the owner has**
30 **continuously retained ownership of the legal entity or a beneficial interest in the voting**
31 **control or equity of the legal entity.**

32 (12) The remedy created by this section is in addition to any other remedy under the Oregon
33 or United States Constitutions, and is not intended to modify or replace any other remedy.

34 (13) If any portion or portions of this section are declared invalid by a court of competent ju-
35 risdiction, the remaining portions of this section shall remain in full force and effect.

36 **SECTION 9. This 2007 Act being necessary for the immediate preservation of the public**
37 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
38 **on its passage.**

39