

HOUSE AMENDMENTS TO HOUSE BILL 3540

By JOINT SPECIAL COMMITTEE ON LAND USE FAIRNESS

April 26

1 On page 1 of the printed bill, line 3, after “ORS” delete the rest of the line and insert “93.040
2 and 197.352; appropriating money; limiting expenditures; and providing that this Act shall be re-
3 ferred to the people for their approval or rejection.”.

4 Delete lines 5 through 31 and delete pages 2 and 3 and insert:

5 **“SECTION 1. Sections 2, 3 and 5 to 22 of this 2007 Act are added to and made a part of**
6 **ORS chapter 195.**

7 **“SECTION 1a. ORS 197.352 is added to and made a part of sections 5 to 22 of this 2007**
8 **Act.**

“DEFINITIONS

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12 **“SECTION 2. As used in this section and sections 3 and 5 to 22 of this 2007 Act:**

13 **“(1) ‘Acquisition date’ means the date described in section 21 of this 2007 Act.**

14 **“(2) ‘Claim’ means a written demand for compensation filed under:**

15 **“(a) ORS 197.352, as in effect immediately before the effective date of this 2007 Act; or**

16 **“(b) Sections 12 to 14 of this 2007 Act and ORS 197.352, as in effect on and after the ef-**
17 **fective date of this 2007 Act.**

18 **“(3) ‘Enacted’ means enacted, adopted or amended.**

19 **“(4) ‘Fair market value’ has the meaning given the term ‘real market value’ in ORS**
20 **308.205.**

21 **“(5) ‘Farming practice’ has the meaning given that term in ORS 30.930.**

22 **“(6) ‘Federal law’ means:**

23 **“(a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state**
24 **entity acting under authority delegated by the federal government;**

25 **“(b) A requirement contained in a plan or rule enacted by a compact entity; or**

26 **“(c) A requirement contained in a permit issued by a federal or state agency pursuant**
27 **to a federal statute or regulation.**

28 **“(7) ‘File’ means to submit a document to a public entity.**

29 **“(8) ‘Forest practice’ has the meaning given that term in ORS 527.620.**

30 **“(9) ‘Ground water restricted area’ means an area designated as a critical ground water**
31 **area or as a ground water limited area by the Water Resources Department or Water Re-**
32 **sources Commission before the effective date of this 2007 Act.**

33 **“(10) ‘High-value farmland’ means:**

34 **“(a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm**
35 **use zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2),**

1 (4) and (6) are the effective date of this 2007 Act.

2 “(b) Land west of U.S. Highway 101 that is composed predominantly of the following soils
3 in Class III or IV or composed predominantly of a combination of the soils described in ORS
4 215.710 (1) and the following soils:

5 “(A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay
6 Loam;

7 “(B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt
8 Loam; and

9 “(C) Subclassification IVw, specifically Huffling Silty Clay Loam.

10 “(c) Land that is within the place of use for a permit, certificate or decree for the use
11 of water for irrigation issued by the Water Resources Department or that is within the
12 boundaries of an irrigation district.

13 “(d) Land that contains not less than five acres planted in wine grapes.

14 “(e) Land that is in an exclusive farm use zone and that is at an elevation between 200
15 and 1,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope
16 between zero and 15 percent, and that is located within:

17 “(A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;

18 “(B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89;

19 “(C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90;

20 “(D) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

21 “(E) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74
22 that is within the State of Oregon;

23 “(F) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91
24 that is within the State of Oregon; or

25 “(G) The portion of the Snake River Valley viticultural area as described in 27 C.F.R.
26 9.208 that is within the State of Oregon.

27 “(f) Land that is in an exclusive farm use zone and that is at an elevation between 200
28 and 2,000 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope
29 between zero and 15 percent, and that is located within the portion of the Columbia Gorge
30 viticultural area as described in 27 C.F.R. 9.178 that is within the State of Oregon.

31 “(11) ‘High-value forestland’ means land that is in a forest zone or a mixed farm and
32 forest zone and that:

33 “(a) Is located in western Oregon and composed predominantly of soils capable of
34 producing more than 120 cubic feet per acre per year of wood fiber and 5,000 cubic feet per
35 year of commercial tree species; or

36 “(b) Is located in eastern Oregon and composed predominantly of soils capable of
37 producing more than 85 cubic feet per acre per year of wood fiber and 4,000 cubic feet per
38 year of commercial tree species.

39 “(12) ‘Home site approval’ means approval of the subdivision or partition of property or
40 approval of the establishment of a dwelling on property.

41 “(13) ‘Just compensation’ means:

42 “(a) Relief under sections 5 to 11 of this 2007 Act for land use regulations enacted before
43 May 15, 2007; and

44 “(b) Relief under sections 12 to 14 of this 2007 Act for land use regulations enacted on
45 or after May 15, 2007.

- 1 **“(14) ‘Land use regulation’ means:**
2 **“(a) A statute that establishes a minimum lot or parcel size;**
3 **“(b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS**
4 **chapter 215 that restricts the residential use of private real property;**
5 **“(c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance**
6 **that restricts the residential use of residentially zoned private real property;**
7 **“(d) A provision of a county comprehensive plan, zoning ordinance or land division ordi-**
8 **nance that restricts the residential use of private real property;**
9 **“(e) An administrative rule of the State Board of Forestry that regulates a forest prac-**
10 **tice and that implements the Oregon Forest Practices Act;**
11 **“(f) An administrative rule of the State Department of Agriculture that implements ORS**
12 **561.191 or 568.900 to 568.933; or**
13 **“(g) An administrative rule or goal of the Land Conservation and Development Commis-**
14 **sion.**
15 **“(15) ‘Measure 37 permit’ means a final decision by a city or county to authorize the de-**
16 **velopment, subdivision or partition or other use of property pursuant to a waiver.**
17 **“(16) ‘Owner’ means:**
18 **“(a) The owner of fee title to the property as shown in the deed records of the county**
19 **where the property is located;**
20 **“(b) The purchaser under a land sale contract, if there is a recorded land sale contract**
21 **in force for the property; or**
22 **“(c) If the property is owned by the trustee of a revocable trust, the settlor of a**
23 **revocable trust, except that when the trust becomes irrevocable only the trustee is the**
24 **owner.**
25 **“(17) ‘Property’ means the private real property described in a claim and contiguous**
26 **private real property that is owned by the same owner, whether or not the contiguous**
27 **property is described in another claim, and that is not property owned by the federal gov-**
28 **ernment, an Indian tribe or a public body, as defined in ORS 192.410.**
29 **“(18) ‘Protection of public health and safety’ means a law, rule, ordinance, order, policy,**
30 **permit or other governmental authorization that restricts a use of property in order to re-**
31 **duce the risk or consequence of fire, earthquake, landslide, flood, storm, pollution, disease,**
32 **crime or other natural or human disaster or threat to persons or property including, but not**
33 **limited to, building and fire codes, health and sanitation regulations, solid or hazardous**
34 **waste regulations and pollution control regulations.**
35 **“(19) ‘Public entity’ means the state, a county or a city.**
36 **“(20) ‘Urban growth boundary’ has the meaning given that term in ORS 195.060.**
37 **“(21) ‘Waive’ or ‘waiver’ means an action or decision of a public entity to modify, remove**
38 **or not apply one or more land use regulations under sections 5 to 22 of this 2007 Act or ORS**
39 **197.352, as in effect immediately before the effective date of this 2007 Act, to allow the owner**
40 **to use property for a use permitted when the owner acquired the property.**
41 **“(22) ‘Zoned for residential use’ means zoning that has as its primary purpose single-**
42 **family residential use.**

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**“LEGISLATIVE POLICY
ON FAIRNESS TO PROPERTY OWNERS**

1 mand for compensation under subsection (4) shall be made within two years of December 2, 2004, or
2 the date the public entity applies the land use regulation as an approval criteria to an application
3 submitted by the owner of the property, whichever is later. For claims arising from land use regulations
4 enacted after December 2, 2004, written demand for compensation under subsection (4) shall be made
5 within two years of the enactment of the land use regulation, or the date the owner of the property
6 submits a land use application in which the land use regulation is an approval criteria, whichever is
7 later.]

8 “[6] If a land use regulation continues to apply to the subject property more than 180 days after
9 the present owner of the property has made written demand for compensation under this section, the
10 present owner of the property, or any interest therein, shall have a cause of action for compensation
11 under this section in the circuit court in which the real property is located, and the present owner of
12 the real property shall be entitled to reasonable attorney fees, expenses, costs, and other disbursements
13 reasonably incurred to collect the compensation.]

14 **“(4) Subsection (3)(a) of this section shall be construed narrowly in favor of granting just**
15 **compensation under this section. Nothing in subsection (3) of this section is intended to af-**
16 **fect or alter rights provided by the Oregon or United States Constitution.**

17 “[7] (5) A [metropolitan service district, city, or county, or state agency] **public entity** may adopt
18 or apply procedures for the processing of claims under [this section, but in no event shall these pro-
19 cedures act as a prerequisite to the filing of a compensation claim under subsection (6) of this section,
20 nor shall the failure of an owner of property to file an application for a land use permit with the local
21 government serve as grounds for dismissal, abatement, or delay of a compensation claim under sub-
22 section (6) of this section] **sections 5 to 22 of this 2007 Act.**

23 “[8] (6) [Notwithstanding any other state statute or the availability of funds under subsection (10)
24 of this section, in lieu of payment of just compensation under this section, the governing body respon-
25 sible for enacting] **The public entity that enacted** the land use regulation [may modify, remove, or
26 not to apply the land use regulation or land use regulations to allow the owner to use the property for
27 a use permitted at the time the owner acquired the property] **that gives rise to a claim under sub-**
28 **section (1) of this section shall provide just compensation as required under sections 5 to 22**
29 **of this 2007 Act.**

30 “[9] (7) A decision by a [governing body under this section shall not be considered a] **public**
31 **entity that an owner qualifies for just compensation under sections 5 to 22 of this 2007 Act**
32 **and a decision by a public entity on the nature and extent of that compensation are not land**
33 **use [decision as defined in ORS 197.015 (11)] decisions.**

34 “[10] Claims made under this section shall be paid from funds, if any, specifically allocated by the
35 legislature, city, county, or metropolitan service district for payment of claims under this section.
36 Notwithstanding the availability of funds under this subsection, a metropolitan service district, city,
37 county, or state agency shall have discretion to use available funds to pay claims or to modify, remove,
38 or not apply a land use regulation or land use regulations pursuant to subsection (6) of this section.
39 If a claim has not been paid within two years from the date on which it accrues, the owner shall be
40 allowed to use the property as permitted at the time the owner acquired the property.]

41 “[11] Definitions - for purposes of this section:]

42 “[A] ‘Family member’ shall include the wife, husband, son, daughter, mother, father, brother,
43 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle,
44 niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate
45 of any of the foregoing family members, or a legal entity owned by any one or combination of these

1 *family members or the owner of the property.]*

2 *“(B) ‘Land use regulation’ shall include:]*

3 *“(i) Any statute regulating the use of land or any interest therein;]*

4 *“(ii) Administrative rules and goals of the Land Conservation and Development Commission;]*

5 *“(iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and*
6 *transportation ordinances;]*

7 *“(iv) Metropolitan service district regional framework plans, functional plans, planning goals and*
8 *objectives; and]*

9 *“(v) Statutes and administrative rules regulating farming and forest practices.]*

10 *“(C) ‘Owner’ is the present owner of the property, or any interest therein.]*

11 *“(D) ‘Public entity’ shall include the state, a metropolitan service district, a city, or a county.]*

12 *“(12) (8) The [remedy] remedies created by [this section is] sections 5 to 22 of this 2007 Act*
13 *are in addition to any other remedy under the Oregon or United States [Constitutions]*
14 *Constitution, and [is] are not intended to modify or replace any [other] constitutional remedy.*

15 *“(13) If any portion or portions of this section are declared invalid by a court of competent juris-*
16 *isdiction, the remaining portions of this section shall remain in full force and effect.]*

17 **“SECTION 4a. The amendments to ORS 197.352 by section 4 of this 2007 Act apply to**
18 **claims made under ORS 197.352 on or after May 15, 2007.**

19
20 **“BALLOT MEASURE 37 CLAIMS MADE**
21 **BEFORE MAY 15, 2007**

22 **“(Generally)**

23
24 **“SECTION 5. A claimant that filed a claim under ORS 197.352 before May 15, 2007, is**
25 **entitled to just compensation as provided in:**

26 **“(1) Section 6 or 7 of this 2007 Act, at the claimant’s election, if the property described**
27 **in the claim is located entirely outside any urban growth boundary and entirely outside the**
28 **boundaries of any city;**

29 **“(2) Section 9 of this 2007 Act if the property described in the claim is located, in whole**
30 **or in part, within an urban growth boundary; or**

31 **“(3) A waiver issued before the effective date of this 2007 Act to the extent that the**
32 **claimant’s use of the property complies with the waiver and the claimant has a common law**
33 **vested right on the effective date of this 2007 Act to complete and continue the use described**
34 **in the waiver.**

35
36 **“(Claims Relating to Property**
37 **Outside Urban Growth Boundaries)**

38
39 **“SECTION 6. (1) A claimant that filed a claim under ORS 197.352 before May 15, 2007, is**
40 **eligible for three home site approvals on the property if the requirements of this section and**
41 **sections 8 and 11 of this 2007 Act are met. The procedure for obtaining home site approvals**
42 **under this section is set forth in section 8 of this 2007 Act.**

43 **“(2) The number of lots, parcels or dwellings that may be approved for property under**
44 **this section may not exceed the lesser of:**

45 **“(a) The number of lots, parcels or dwellings described in a waiver issued by the state**

1 before the effective date of this 2007 Act or, if a waiver was not issued, the number of lots,
2 parcels or dwellings described in the claim filed with the state; or

3 “(b) Three, except that if there are existing dwellings on the property or the property
4 contains more than one lot or parcel, the number of lots, parcels or dwellings that may be
5 established is reduced so that the combined number of lots, parcels or dwellings, including
6 existing lots, parcels or dwellings located on or contained within the property, does not ex-
7 ceed three.

8 “(3) Notwithstanding subsection (2) of this section, a claimant that otherwise qualifies for
9 relief under this section may establish at least one additional lot, parcel or dwelling on the
10 property. In addition, if the number of lots, parcels or dwellings described in a waiver issued
11 by the state before the effective date of this 2007 Act or, if a waiver was not issued, the
12 number of lots, parcels or dwellings described in the claim filed with the state is more than
13 three, the claimant may amend the claim to reduce the number to no more than three by
14 filing notice of the amendment with the information required by section 8 of this 2007 Act.

15 “(4) If a claim was for a use other than a subdivision or partition of property, or other
16 than approval for establishing a dwelling on the property, the claimant may amend the claim
17 to seek one or more home site approvals under this section. A person amending a claim
18 under this subsection may not make a claim under section 7 of this 2007 Act.

19 “(5) If multiple claims were filed for the same property, the number of lots, parcels or
20 dwellings that may be established for purposes of subsection (2)(a) of this section is the
21 number of lots, parcels or dwellings in the most recent waiver issued by the state before the
22 effective date of this 2007 Act or, if a waiver was not issued, the most recent claim filed with
23 the state, but not more than three in any case.

24 “(6) To qualify for a home site approval under this section, the claimant must have filed
25 a claim for the property with both the state and the county in which the property is located.
26 In addition, regardless of whether a waiver was issued by the state or the county before the
27 effective date of this 2007 Act, to qualify for a home site approval under this section the
28 claimant must establish that:

29 “(a) The claimant is an owner of the property;

30 “(b) All owners of the property have consented in writing to the claim;

31 “(c) The property is located entirely outside any urban growth boundary and entirely
32 outside the boundaries of any city;

33 “(d) One or more land use regulations prohibit establishing the lot, parcel or dwelling;

34 “(e) The establishment of the lot, parcel or dwelling is not prohibited by a land use reg-
35 ulation described in ORS 197.352 (3); and

36 “(f) On the claimant’s acquisition date, the claimant lawfully was permitted to establish
37 at least the number of lots, parcels or dwellings on the property that are authorized under
38 this section.

39 “(7) If the claim was filed after December 4, 2006, to issue a home site approval under
40 this section, the Department of Land Conservation and Development must verify that the
41 claim was filed in compliance with the applicable rules of the Land Conservation and Devel-
42 opment Commission and the Oregon Department of Administrative Services.

43 “(8) Except as provided in section 11 of this 2007 Act, if the Department of Land Con-
44 servation and Development has issued a final order with a specific number of home site ap-
45 provals for a property under this section, the claimant may obtain other governmental

1 authorizations required by law for the partition or subdivision of the property or for the
2 development of any dwelling authorized, and a land use regulation enacted by the state or
3 county that has the effect of prohibiting the partition or subdivision, or the dwelling, does
4 not apply to those authorizations.

5 **“SECTION 7. (1) A claimant that filed a claim under ORS 197.352 before May 15, 2007, for**
6 **property that is not high-value farmland or high-value forestland and that is not in a ground**
7 **water restricted area is eligible for four to 10 home site approvals for the property if the**
8 **requirements of this section and sections 8 and 11 of this 2007 Act are met. The procedure**
9 **for obtaining home site approvals under this section is set forth in section 8 of this 2007 Act.**

10 **“(2) The number of lots, parcels or dwellings that may be established on the property**
11 **under this section may not exceed the lesser of:**

12 **“(a) The number of lots, parcels or dwellings described in a waiver issued by the state**
13 **before the effective date of this 2007 Act or, if a waiver was not issued, the number of lots,**
14 **parcels or dwellings described in the claim filed with the state;**

15 **“(b) 10, except that if there are existing dwellings on the property or the property con-**
16 **tains more than one lot or parcel, the number of lots, parcels or dwellings that may be es-**
17 **tablished is reduced, so that the combined number of lots, parcels or dwellings, including**
18 **existing lots, parcels or dwellings located on or contained within the property, does not ex-**
19 **ceed 10; or**

20 **“(c) The number of home site approvals with a total value that represents just compen-**
21 **sation for the reduction in fair market value caused by the enactment of one or more land**
22 **use regulations that were the basis for the claim, as set forth in subsection (6) of this sec-**
23 **tion.**

24 **“(3) If the number of lots, parcels or dwellings described in a waiver issued by the state**
25 **before the effective date of this 2007 Act or, if a waiver was not issued, the number of lots,**
26 **parcels or dwellings described in the claim filed with the state is more than 10, the claimant**
27 **may amend the claim to reduce the number to no more than 10 by filing notice of the**
28 **amendment with the information required by section 8 of this 2007 Act.**

29 **“(4) If multiple claims were filed for the same property, the number of lots, parcels or**
30 **dwellings that may be established for purposes of subsection (2)(a) of this section is the**
31 **number of lots, parcels or dwellings in the most recent waiver issued by the state before the**
32 **effective date of this 2007 Act or, if a waiver was not issued, the most recent claim filed with**
33 **the state, but not more than 10 in any case.**

34 **“(5) To qualify for a home site approval under this section, the claimant must have filed**
35 **a claim for the property with both the state and the county in which the property is located.**
36 **In addition, regardless of whether a waiver was issued by the state or the county before the**
37 **effective date of this 2007 Act to qualify for a home site approval under this section, the**
38 **claimant must establish that:**

39 **“(a) The claimant is an owner of the property;**

40 **“(b) All owners of the property have consented in writing to the claim;**

41 **“(c) The property is located entirely outside any urban growth boundary and entirely**
42 **outside the boundaries of any city;**

43 **“(d) One or more land use regulations prohibit establishing the lot, parcel or dwelling;**

44 **“(e) The establishment of the lot, parcel or dwelling is not prohibited by a land use reg-**
45 **ulation described in ORS 197.352 (3);**

1 “(f) On the claimant’s acquisition date, the claimant lawfully was permitted to establish
2 at least the number of lots, parcels and dwellings on the property that are authorized under
3 this section; and

4 “(g) The enactment of one or more land use regulations, other than land use regulations
5 described in ORS 197.352 (3), that are the basis for the claim caused a reduction in the fair
6 market value of the property that is greater than the fair market value of the home site
7 approvals that the claimant would otherwise be entitled to under section 6 (2) of this 2007
8 Act, with the reduction in fair market value measured as set forth in subsection (6) of this
9 section.

10 “(6) The reduction in the fair market value of the property caused by the enactment of
11 one or more land use regulations that were the basis for the claim is equal to the decrease,
12 if any, in the fair market value of the property from the date that is one year before the
13 enactment of the land use regulation to the date that is one year after the enactment, plus
14 interest. If the claim is based on the enactment of more than one land use regulation enacted
15 on different dates, the reduction in the fair market value of the property caused by each
16 regulation shall be determined separately and the values added together to calculate the total
17 reduction in fair market value. The reduction in fair market value shall be adjusted by any
18 ad valorem property taxes not paid as a result of any special assessment of the property
19 under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855, plus
20 interest, offset by any severance taxes paid by the claimant and by any recapture of potential
21 additional tax liability that the claimant has paid or will pay for the property if the property
22 is disqualified from special assessment under ORS 308A.703. Interest shall be computed under
23 this subsection using the average interest rate for a one-year United States Government
24 Treasury Bill on December 31 of each year of the period between the date the land use reg-
25 ulation was enacted and the date the claim was filed, compounded annually on January 1 of
26 each year of the period.

27 “(7) For the purposes of subsection (6) of this section, a claimant must provide an ap-
28 praisal showing the fair market value of the property one year before the enactment of the
29 land use regulation that was the basis for the claim and the fair market value of the property
30 one year after the enactment. The appraisal also must show the fair market value of each
31 home site approval to which the claimant is entitled under section 6 (2) of this 2007 Act,
32 along with evidence of any ad valorem property taxes not paid, any severance taxes paid and
33 any recapture of additional tax liability that the claimant has paid or will pay for the prop-
34 erty if the property is disqualified from special assessment under ORS 308A.703. The actual
35 and reasonable cost of the appraisal, not to exceed \$5,000, may be added to the calculation
36 of the reduction in fair market value under subsection (6) of this section. The appraisal must:

37 “(a) Be prepared by a person certified or licensed under ORS chapter 674 or a person
38 registered under ORS chapter 308;

39 “(b) Comply with the Uniform Standards of Professional Appraisal Practice, as authorized
40 by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

41 “(c) Expressly determine the highest and best use of the property at the time the land
42 use regulation was enacted.

43 “(8) Relief may not be granted under this section if the highest and best use of the
44 property was not residential use at the time the land use regulation was enacted.

45 “(9) If the claim was filed after December 4, 2006, to issue a home site approval under

1 this section, the Department of Land Conservation and Development must verify that the
2 claim was filed in compliance with the applicable rules of the Land Conservation and Devel-
3 opment Commission and the Oregon Department of Administrative Services.

4 “(10) Except as provided in section 11 of this 2007 Act, if the Department of Land Con-
5 servation and Development has issued a final order with a specific number of home site ap-
6 provals for the property under this section, the claimant may obtain other governmental
7 authorizations required by law for the subdivision or partition of the property or for the
8 development of any dwelling authorized, and a land use regulation enacted by the state or
9 county that has the effect of prohibiting the subdivision or partition, or the dwelling, does
10 not apply to those authorizations.

11 “SECTION 8. (1) A claimant that seeks home site approvals under section 6 or 7 of this
12 2007 Act must elect the section under which the claimant wishes to seek relief. Not more
13 than 120 days after the effective date of this 2007 Act, the Department of Land Conservation
14 and Development shall send notice to each claimant that is eligible for one or more home
15 site approvals under section 6 of this 2007 Act. The notice must:

16 “(a) Explain that the claimant must elect whether to seek relief under section 6 or 7 of
17 this 2007 Act if the claimant wishes to subdivide, partition or establish a dwelling on the
18 property under sections 5 to 22 of this 2007 Act;

19 “(b) Identify the information that the claimant must file; and

20 “(c) Provide a form for the claimant’s use in making the election and filing any required
21 information.

22 “(2) A claimant must make the election required by this section in writing, using the
23 form provided by the department, and must file the election within 90 days after the date the
24 department mailed the notice and form required under subsection (1) of this section. In ad-
25 dition, the claimant must file the information required in the notice. If the claimant fails to
26 file the written election and required information within 90 days after the date the depart-
27 ment mailed the notice required under subsection (1) of this section, the claimant is not
28 entitled to relief under section 6 or 7 of this 2007 Act.

29 “(3) The department shall review the claims in the order in which the department re-
30 ceives the information required under subsection (2) of this section. In addition to reviewing
31 the claim, the department shall review the department’s record on the claim, the informa-
32 tion required under subsection (2) of this section, any new material from the claimant and
33 any other information required by sections 5 to 22 of this 2007 Act to ensure that the re-
34 quirements of this section and section 6 or 7 of this 2007 Act are met. The department shall
35 provide a copy of the material submitted by the claimant to the county where the property
36 is located and consider written comments from the county that are timely filed with the
37 department. If the department determines that the only land use regulations that restrict
38 the claimant’s use of the property are regulations that were enacted by the county, the de-
39 partment shall transfer the claim to the county where the property is located and the claim
40 shall be processed by the county. The county must consider any written comments from the
41 department that are timely filed with the county.

42 “(4) If the claimant elects to obtain relief under section 7 of this 2007 Act, the claimant
43 must file an appraisal that establishes the reduction in the fair market value of the property
44 as required by section 7 (6) of this 2007 Act. The actual and reasonable cost of the appraisal,
45 not to exceed \$5,000, may be added to the calculation of the reduction in fair market value

1 under section 7 (6) of this 2007 Act. The appraisal must be filed with the department or, if
2 the claim is being processed by the county, with the county within 180 days after the date
3 the claimant files the election to obtain relief under section 7 of this 2007 Act. A claimant
4 that elects to obtain relief under section 7 of this 2007 Act may change that election to obtain
5 relief under section 6 of this 2007 Act, but only if the claimant provides written notice of the
6 change on or before the date the appraisal is filed. The department or the county may impose
7 a fee for the review of a claim under section 7 of this 2007 Act in an amount not to exceed
8 \$1,000.

9 “(5) The department or the county shall review claims as quickly as possible, consistent
10 with the resources available to the department or county for thorough review of the claims.
11 The department shall report to the Joint Legislative Audit Committee on or before March
12 31, 2008, concerning the department’s progress and the counties’ progress in completing re-
13 view of claims under sections 6 and 7 of this 2007 Act.

14 “(6) The department’s final order and a county’s final decision on a claim under section
15 6 or 7 of this 2007 Act must either deny the claim or approve the claim. If the order or de-
16 cision approves the claim, the order or decision must state the number of home site ap-
17 provals issued for the property and may contain other terms that are necessary to ensure
18 that the use of the property is lawful.

19
20 “(Claims Relating to Property Within
21 Urban Growth Boundaries)
22

23 “SECTION 9. (1) A claimant that filed a claim under ORS 197.352 before the effective date
24 of this 2007 Act for property located, in whole or in part, within an urban growth boundary
25 may establish one to 10 single-family dwellings on the portion of the property located within
26 the urban growth boundary.

27 “(2) The number of single-family dwellings that may be established on the portion of the
28 property located within the urban growth boundary under this section may not exceed the
29 lesser of:

30 “(a) The number of single-family dwellings described in a waiver issued by the city or the
31 county before the effective date of this 2007 Act or, if a waiver was not issued, the number
32 described in the claim filed with the city or county;

33 “(b) 10, except that if there are existing dwellings on the property, the number of
34 single-family dwellings that may be established is reduced so that the maximum number of
35 dwellings, including existing dwellings located on the property, does not exceed 10; or

36 “(c) The number of single-family dwellings the total value of which represents just com-
37 pensation for the reduction in fair market value caused by the enactment of one or more
38 land use regulations that were the basis for the claim, as set forth in subsection (6) of this
39 section.

40 “(3) If the number of single-family dwellings described in a waiver issued by the city or
41 the county before the effective date of this 2007 Act or, if a waiver was not issued, the
42 number described in the claim filed with the city or county is more than 10, the claimant
43 may amend the claim to reduce the number to no more than 10 by filing notice of the
44 amendment with the information required by section 10 of this 2007 Act.

45 “(4) If multiple claims were filed for the same property, the number of single-family

1 dwellings that may be established for purposes of subsection (2)(a) of this section is the
2 number in the most recent waiver issued by the city or the county before the effective date
3 of this 2007 Act or, if a waiver was not issued, the most recent claim filed with the city or
4 county, but not more than 10 in any case.

5 “(5) To qualify for the relief provided by this section, the claimant must have filed a claim
6 for the property with the city or county in which the property is located. In addition, re-
7 gardless of whether a waiver was issued by the city or the county before the effective date
8 of this 2007 Act, to qualify for relief under this section, the claimant must establish that:

9 “(a) The claimant is an owner of the property;

10 “(b) All owners of the property have consented in writing to the claim;

11 “(c) The property is located, in whole or in part, within an urban growth boundary;

12 “(d) On the claimant’s acquisition date, the claimant lawfully was permitted to establish
13 at least the number of dwellings on the property that are authorized under this section;

14 “(e) The property is zoned for residential use;

15 “(f) One or more land use regulations prohibit establishing the single-family dwellings;

16 “(g) The establishment of the single-family dwellings is not prohibited by a land use reg-
17 ulation described in ORS 197.352 (3);

18 “(h) The land use regulation described in paragraph (f) of this subsection was enacted
19 after the date the property, or any portion of the property, was brought into the urban
20 growth boundary;

21 “(i) If the property is located within a city, the land use regulation that is the basis for
22 the claim was enacted after the date the property was annexed to the city; and

23 “(j) The enactment of one or more land use regulations, other than land use regulations
24 described in ORS 197.352 (3), that are the basis of the claim caused a reduction in the fair
25 market value of the property, as determined under subsection (6) of this section, that is
26 greater than the fair market value of the single-family dwellings the claimant would other-
27 wise be entitled to under subsection (2) of this section.

28 “(6) The reduction in the fair market value of the property caused by the enactment of
29 one or more land use regulations that were the basis for the claim is equal to the decrease,
30 if any, in the fair market value of the property from the date that is one year before the
31 enactment of the land use regulation to the date that is one year after the enactment, plus
32 interest. If the claim is based on the enactment of more than one land use regulation enacted
33 on different dates, the reduction in the fair market value of the property caused by each
34 regulation shall be determined separately and the values added together to calculate the total
35 reduction in fair market value. The reduction in fair market value shall be adjusted by any
36 ad valorem property taxes not paid as a result of any special assessment of the property
37 under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855, plus
38 interest, offset by any severance taxes paid by the claimant and by any recapture of potential
39 additional tax liability that the claimant has paid or will pay for the property if the property
40 is disqualified from special assessment under ORS 308A.703. Interest shall be computed under
41 this subsection using the average interest rate for a one-year United States Government
42 Treasury Bill on December 31 of each year of the period between the date the land use reg-
43 ulation was enacted and the date the claim was filed, compounded annually on January 1 of
44 each year of the period.

45 “(7) For the purposes of subsection (6) of this section, a claimant must provide an ap-

1 praisal showing the fair market value of the property one year before the enactment of the
2 land use regulation that was the basis for the claim and the fair market value of the property
3 one year after the enactment. The appraisal also must show the fair market value of each
4 single-family dwelling to which the claimant is entitled under subsection (2) of this section,
5 along with evidence of any ad valorem property taxes not paid, any severance taxes paid and
6 any recapture of additional tax liability that the owner has paid or will pay for the property
7 if the property is disqualified from special assessment under ORS 308A.703. The actual and
8 reasonable cost of the appraisal, not to exceed \$5,000, may be added to the calculation of the
9 reduction in fair market value under section 7 (6) of this 2007 Act. The appraisal must:

10 “(a) Be prepared by a person certified or licensed under ORS chapter 674 or a person
11 registered under ORS chapter 308;

12 “(b) Comply with the Uniform Standards of Professional Appraisal Practice, as authorized
13 by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

14 “(c) Expressly determine the highest and best use of the property at the time the land
15 use regulation was enacted.

16 “(8) Relief may not be granted under this section if the highest and best use of the
17 property was not residential use at the time the land use regulation was enacted.

18 “(9) When a city or county has issued a final decision authorizing one or more single-
19 family dwellings under this section on the portion of the property located within the urban
20 growth boundary, the claimant may obtain other governmental authorizations required by
21 law for that use, and a land use regulation enacted by the city or county that has the effect
22 of prohibiting the use does not apply to those authorizations, except as provided in section
23 11 of this 2007 Act.

24 “(10) The only types of land use that are authorized by this section are the subdivision
25 or partition of land for one or more single-family dwellings, or the establishment of one or
26 more single-family dwellings on land on which the dwellings would not otherwise be allowed.

27 **“SECTION 10. (1) A city or county that issued a waiver before the effective date of this**
28 **2007 Act for property located, in whole or in part, within an urban growth boundary must**
29 **review the claim, the city’s or county’s record on the claim and the waiver to determine**
30 **whether the claimant is entitled to relief under section 9 of this 2007 Act. If the city or**
31 **county lacks information needed to determine whether the claimant is entitled to relief, the**
32 **city or county shall issue a written request to the claimant for the required information. The**
33 **claimant must file the required information within 90 days after receiving the request. If**
34 **the claimant does not file the information, the city or county shall review the claim based**
35 **on the information that is available. A tentative review must be completed no later than 240**
36 **days after the effective date of this 2007 Act. The city or county must provide written notice**
37 **to the claimant, the Department of Land Conservation and Development and any other per-**
38 **son entitled to notice of the tentative determination as to whether the claimant qualifies for**
39 **relief under section 9 of this 2007 Act and, if so, the specific number of single-family**
40 **dwellings that the city or county proposes to authorize. The notice must state that the re-**
41 **recipient has 15 days to submit evidence or arguments in response to the tentative determi-**
42 **nation, after which the city or county shall make a final determination. A city or county**
43 **must make the final determination within 300 days after the effective date of this 2007 Act.**

44 “(2) A city or county that did not make a final decision before the effective date of this
45 2007 Act on a claim filed for property located, in whole or in part, within an urban growth

1 boundary shall send notice to the claimant within 90 days after the effective date of this 2007
2 Act. The notice must explain that the claimant is entitled to seek relief under section 9 of
3 this 2007 Act, identify the information that the claimant must file and provide a form for the
4 claimant's use in filing any required information. Within 120 days after the date the city or
5 county sends notice, a claimant must notify the city or county if the claimant intends to
6 continue the claim and must file the information required in the notice. If the claimant fails
7 to file the notice and required information with the city or county within 120 days, the
8 claimant is not entitled to relief under section 9 of this 2007 Act.

9 “(3) A city or county that receives a notice from a claimant under subsection (2) of this
10 section shall review the claim, the city's or county's record on the claim, the notice received
11 from the claimant and the information required under subsection (2) of this section to de-
12 termine whether the claim demonstrates that the requirements of section 9 of this 2007 Act
13 are satisfied. The city or county shall complete a tentative review no later than 120 days
14 after receipt of the notice from the claimant and shall provide written notice to the claimant,
15 the department and any other person entitled to notice of the tentative determination as to
16 whether the claimant qualifies for relief under section 9 of this 2007 Act and, if so, the spe-
17 cific number of single-family dwellings that the city or county proposes to authorize. The
18 notice provided by the city or county must state that the recipient has 15 days to submit
19 evidence or arguments in response to the tentative determination, after which the city or
20 county shall make a final determination. A city or county must make the final determination
21 within 180 days after receipt of the notice from the claimant.

22 “(4) If a claimant filed a claim that is subject to this section after December 4, 2006, the
23 claim must have included a copy of a final land use decision by the city or county with land
24 use jurisdiction over the property that denied an application by the claimant for the resi-
25 dential use described in the claim. If the claim was filed after December 4, 2006, and did not
26 include a final land use decision denying the residential use described in the claim, the
27 claimant is not entitled to relief under section 9 of this 2007 Act.

28
29 “(Development Standards; Transferability)
30

31 “SECTION 11. (1) A subdivision or partition of property, or the establishment of a
32 dwelling on property, authorized under sections 5 to 11 of this 2007 Act must comply with
33 all applicable standards governing the siting or development of the dwelling, lot or parcel
34 including, but not limited to, the location, design, construction or size of the dwelling, lot
35 or parcel. However, the standards must not be applied in a manner that has the effect of
36 prohibiting the establishment of the dwelling, lot or parcel authorized under sections 5 to 11
37 of this 2007 Act unless the standards are reasonably necessary to avoid or abate a nuisance,
38 to protect public health or safety or to carry out federal law.

39 “(2) Before beginning construction of any dwelling authorized under section 6 or 7 of this
40 2007 Act, the owner must comply with the requirements of ORS 215.293 if the property is in
41 an exclusive farm use zone, a forest zone or a mixed farm and forest zone.

42 “(3)(a) A city or county may approve the creation of a lot or parcel to contain a dwelling
43 authorized under sections 5 to 11 of this 2007 Act. However, a new lot or parcel located in
44 an exclusive farm use zone, a forest zone or a mixed farm and forest zone may not exceed:

45 “(A) Two acres if the lot or parcel is located on high-value farmland, on high-value

1 forestland or on land within a ground water restricted area; or

2 “(B) Five acres if the lot or parcel is not located on high-value farmland, on high-value
3 forestland or on land within a ground water restricted area.

4 “(b) If the property is in an exclusive farm use zone, a forest zone or a mixed farm and
5 forest zone, the new lots or parcels created must be clustered so as to maximize suitability
6 of the remnant lot or parcel for farm or forest use.

7 “(4) If an owner is authorized to subdivide or partition more than one property, or to
8 establish dwellings on more than one property, under sections 5 to 11 of this 2007 Act and
9 the properties are in an exclusive farm use zone, a forest zone or a mixed farm and forest
10 zone, the owner may cluster some or all of the dwellings, lots or parcels on one of the
11 properties if that property is less suitable than the other properties for farm or forest use.
12 If one of the properties is zoned for residential use, the owner may cluster some or all of the
13 dwellings, lots or parcels that would have been located in an exclusive farm use zone, a forest
14 zone or a mixed farm and forest zone on the property zoned for residential use.

15 “(5) An owner is not eligible for more than 20 home site approvals under sections 5 to
16 11 of this 2007 Act, regardless of how many properties that person owns or how many claims
17 that person has filed.

18 “(6) An authorization to partition or subdivide the property, or to establish dwellings on
19 the property, granted under section 6, 7 or 9 of this 2007 Act runs with the property and
20 may be either transferred with the property or encumbered by another person without af-
21 fecting the authorization. There is no time limit on when an authorization granted under
22 section 6, 7 or 9 of this 2007 Act must be carried out, except that once the owner who ob-
23 tained the authorization conveys the property to a person other than the owner’s spouse or
24 the trustee of a revocable trust in which the owner is the settlor, the subsequent owner of
25 the property must create the lots or parcels and establish the dwellings authorized by a
26 waiver under section 6, 7 or 9 of this 2007 Act within 10 years of the conveyance. In addition:

27 “(a) A lot or parcel lawfully created based on an authorization under section 6, 7 or 9 of
28 this 2007 Act remains a discrete lot or parcel, unless the lot or parcel lines are vacated or
29 the lot or parcel is further divided, as provided by law; and

30 “(b) A dwelling or other residential use of the property based on an authorization under
31 section 6, 7 or 9 of this 2007 Act is a permitted use and may be established or continued by
32 the claimant or a subsequent owner, except that once the claimant conveys the property to
33 a person other than the claimant’s spouse or the trustee of a revocable trust in which the
34 claimant is the settlor, the subsequent owner must establish the dwellings or other residen-
35 tial use authorized under section 6, 7 or 9 of this 2007 Act within 10 years of the conveyance.

36 “(7) When relief has been claimed under sections 5 to 11 of this 2007 Act:

37 “(a) Additional relief is not due; and

38 “(b) An additional claim may not be filed and a waiver may not be issued with regard to
39 the property under sections 5 to 22 of this 2007 Act or ORS 197.352 as in effect immediately
40 before the effective date of this 2007 Act, except with respect to a land use regulation en-
41 acted on or after May 15, 2007, Act as set forth in sections 12 to 14 of this 2007 Act and ORS
42 197.352.

43 “(8) A person that is eligible to be a holder as defined in ORS 271.715 may acquire the
44 rights to carry out a use of land authorized under sections 5 to 11 of this 2007 Act from a
45 willing seller in the manner provided by ORS 271.715 to 271.795.

1 “(9) If a claimant is an individual, the entitlement to prosecute the claim under section
2 6, 7 or 9 of this 2007 Act and an authorization to use the property provided by a waiver under
3 section 6, 7 or 9 of this 2007 Act:

4 “(a) Is not affected by the death of the claimant if the death occurs on or after the ef-
5 fective date of this 2007 Act; and

6 “(b) Passes to the person that acquires the property by devise or by operation of law.

7
8 “BALLOT MEASURE 37 CLAIMS MADE
9 ON OR AFTER MAY 15, 2007

10 “(Generally)

11
12 “SECTION 12. (1) A person may file a claim for just compensation under sections 12 to
13 14 of this 2007 Act and ORS 197.352 if:

14 “(a) The person is an owner of the property and all owners of the property have con-
15 sented in writing to the filing of the claim;

16 “(b) The person’s desired use of the property is a residential use or a farming or forest
17 practice;

18 “(c) The person’s desired use of the property is restricted by one or more land use reg-
19 ulations enacted on or after May 15, 2007; and

20 “(d) The enactment of one or more land use regulations, other than land use regulations
21 described in ORS 197.352 (3), has unfairly reduced the fair market value of the property, as
22 described in subsection (2) of this section.

23 “(2) The enactment of one or more land use regulations has the effect of unfairly re-
24 ducing the fair market value of property if the regulation or regulations cause:

25 “(a) A reduction of 10 percent or more in the fair market value of the property by reason
26 of the enactment of one land use regulation; or

27 “(b) A reduction of 25 percent or more in the fair market value of the property by reason
28 of the enactment of more than one land use regulation during any five-year period.

29 “(3) For purposes of subsection (2) of this section, the reduction in the fair market value
30 of the property caused by the enactment of one or more land use regulations that are the
31 basis for the claim is equal to the decrease, if any, in the fair market value of the property
32 from the date that is one year before the enactment of the land use regulation to the date
33 that is one year after the enactment, plus interest. A claim may be based on more than one
34 land use regulation only if all of the land use regulations relied on by the claimant were en-
35 acted within a five-year period. If the claim is based on the enactment of more than one land
36 use regulation enacted on different dates, the reduction in the fair market value of the
37 property caused by each regulation shall be determined separately and the values added to-
38 gether to calculate the total reduction in fair market value. Interest shall be computed un-
39 der this subsection using the average interest rate for a one-year United States Government
40 Treasury Bill on December 31 of each year of the period between the date the land use reg-
41 ulation was enacted and the date the claim was filed, compounded annually on January 1 of
42 each year of the period. A claimant must provide an appraisal showing the fair market value
43 of the property one year before the enactment of the land use regulation and the fair market
44 value of the property one year after the enactment. The actual and reasonable cost of the
45 appraisal, not to exceed \$5,000, may be added to the calculation of the reduction in fair

1 market value under this subsection. The appraisal must:

2 “(a) Be prepared by a person certified or licensed under ORS chapter 674 or a person
3 registered under ORS chapter 308;

4 “(b) Comply with the Uniform Standards of Professional Appraisal Practice, as authorized
5 by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

6 “(c) Expressly determine the highest and best use of the property at the time the land
7 use regulation was enacted.

8 “(4) Relief may not be granted under this section if the highest and best use of the
9 property was not residential use at the time the land use regulation was enacted.

10 “(5) If the claimant establishes that the requirements of subsection (1) of this section
11 are satisfied and the land use regulation was enacted by a city or a county, the city or county
12 must either:

13 “(a) Compensate the claimant for the reduction in the fair market value of the property;
14 or

15 “(b) Grant a waiver to the claimant so the land use regulation does not apply to the
16 claimant’s use of the property.

17 “(6) If the claimant establishes that the requirements of subsection (1) of this section
18 are satisfied and the land use regulation was enacted by state government, as defined in ORS
19 174.111, the state agency that is responsible for administering the statute, statewide land use
20 planning goal or rule must authorize the claimant to use the property without application
21 of the land use regulation. If a state agency is not responsible for administering the land use
22 regulation, the Oregon Department of Administrative Services is authorized to allow the
23 claimant to use the property without application of the land use regulation.

24 “(7) A use authorized by this section has the legal status of a lawful nonconforming use
25 in the same manner as provided by ORS 215.130. The claimant may carry out a use author-
26 ized by a city, county or state agency under this section except that a public entity may
27 waive only land use regulations that were enacted by the public entity. When a use author-
28 ized by this section is lawfully established, the use may be continued lawfully in the same
29 manner as provided by ORS 215.130.

30
31 “(Procedures for Actions on New Claims)
32

33 “SECTION 13. (1) A person filing a claim under section 12 of this 2007 Act shall file the
34 claim in the manner provided by this section. If the property for which the claim is filed has
35 more than one owner, the claim must be signed by all the owners or the claim must include
36 a signed statement of consent from each owner. Only one claim for each property may be
37 filed for each land use regulation.

38 “(2) A claim filed under section 12 of this 2007 Act must be filed with the public entity
39 that enacted the land use regulation that is the basis for the claim.

40 “(3) Cities and counties and the Department of Land Conservation and Development may
41 impose a fee for the review of a claim filed under section 12 of this 2007 Act in an amount
42 not to exceed \$1,000.

43 “(4) A person must file a claim under section 12 of this 2007 Act within five years after
44 the date the land use regulation was enacted.

45 “(5) A public entity that receives a claim filed under section 12 of this 2007 Act must is-

1 sue a final determination on the claim within 180 days after the date the claim is complete,
2 as described in subsection (9) of this section.

3 “(6) If a claim under section 12 of this 2007 Act is filed with state government, as defined
4 in ORS 174.111, the claim must be filed with the department. If the claim is filed with a city
5 or county, the claim must be filed with the chief administrative office of the city or county,
6 or with an individual designated by ordinance, resolution or order of the city or county.

7 “(7) A claim filed under section 12 of this 2007 Act must be in writing and must include:

8 “(a) The name and address of each owner;

9 “(b) The address, if any, and tax lot number, township, range and section of the property;

10 “(c) Evidence of the acquisition date of the claimant, including the instrument conveying
11 the property to the claimant and a report from a title company identifying the person in
12 which title is vested and the claimant’s acquisition date and describing exceptions and
13 encumbrances to title that are of record;

14 “(d) A citation to the land use regulation that the claimant believes is restricting the
15 claimant’s desired use of the property that is adequate to allow the public entity to identify
16 the specific land use regulation that is the basis for the claim;

17 “(e) A description of the specific use of the property that the claimant desires to carry
18 out but cannot because of the land use regulation; and

19 “(f) An appraisal of the property that complies with section 12 (3) of this 2007 Act.

20 “(8) A claim filed under section 12 of this 2007 Act must include the fee, if any, imposed
21 by the public entity with which the claim is filed pursuant to subsection (3) of this section.

22 “(9) The public entity shall review a claim filed under section 12 of this 2007 Act to de-
23 termine whether the claim complies with the requirements of sections 12 to 14 of this 2007
24 Act. If the claim is incomplete, the public entity shall notify the claimant in writing of the
25 information or fee that is missing within 60 days after receiving the claim and allow the
26 claimant to submit the missing information or fee. The claim is complete when the public
27 entity receives any fee required by subsection (8) of this section and:

28 “(a) The missing information;

29 “(b) Part of the missing information and written notice from the claimant that the re-
30 mainder of the missing information will not be provided; or

31 “(c) Written notice from the claimant that none of the missing information will be pro-
32 vided.

33 “(10) If a public entity does not notify a claimant within 60 days after a claim is filed
34 under section 12 of this 2007 Act that information or the fee is missing from the claim, the
35 claim is deemed complete when filed.

36 “(11) A claim filed under section 12 of this 2007 Act is deemed withdrawn if the public
37 entity gives notice to the claimant under subsection (9) of this section and the claimant does
38 not comply with the requirements of subsection (9) of this section.

39 “SECTION 14. (1) A public entity that receives a complete claim as described in section
40 13 of this 2007 Act shall provide notice of the claim at least 30 days before a public hearing
41 on the claim or, if there will not be a public hearing, at least 30 days before the deadline for
42 submission of written comments, to:

43 “(a) All owners identified in the claim;

44 “(b) All persons described in ORS 197.763 (2);

45 “(c) The Department of Land Conservation and Development, unless the claim was filed

1 with the department;

2 “(d) The county in which the property is located, unless the claim was filed with the
3 county; and

4 “(e) The city, if the property is located within the urban growth boundary or adopted
5 urban planning area of the city.

6 “(2) The notice required under subsection (1) of this section must describe the claim and
7 state:

8 “(a) Whether a public hearing will be held on the claim, the date, time and location of
9 the hearing, if any, and the final date for submission of written evidence and arguments re-
10 lating to the claim;

11 “(b) That judicial review of the final determination of a public entity on the claim is
12 limited to the written evidence and arguments submitted to the public entity; and

13 “(c) That judicial review is available only for issues that are raised with sufficient
14 specificity to afford the public entity an opportunity to respond.

15 “(3) Except as provided in subsection (4) of this section, written evidence and arguments
16 in proceedings on the claim must be submitted to the public entity not later than:

17 “(a) The close of the final public hearing on the claim; or

18 “(b) If a public hearing is not held, the date that is specified by the public entity in the
19 notice required under subsection (1) of this section.

20 “(4) The claimant may request additional time to submit written evidence and arguments
21 in response to testimony or submittals. The request must be made before the close of testi-
22 mony or the deadline for submission of written evidence and arguments.

23 “(5) A public entity shall make the record on review of a claim, including any staff re-
24 ports, available to the public before the close of the record as described in subsections (3)
25 and (4) of this section.

26 “(6) A public entity shall mail a copy of the final determination to the claimant and to
27 any person who submitted written evidence or arguments before the close of the record. The
28 public entity shall forward to the county, and the county shall record, a memorandum of the
29 final determination in the deed records of the county in which the property is located.

30 “SECTION 15. In addition to any other notice required by law, a county must give notice
31 of a Measure 37 permit for property located entirely outside an urban growth boundary to:

32 “(1) The county assessor for the county in which the property is located;

33 “(2) A district or municipality that supplies water for domestic, municipal or irrigation
34 uses and has a place of use or well located within one-half mile of the property; and

35 “(3) The Department of Land Conservation and Development, the State Department of
36 Agriculture, the Water Resources Department and the State Forestry Department.

37
38 “JUDICIAL REVIEW
39

40 “SECTION 16. (1) A person that is adversely affected by a final determination of a public
41 entity under sections 5 to 11 or 12 to 14 of this 2007 Act may obtain judicial review of that
42 determination under ORS 34.010 to 34.100, if the determination is one of a city or a county,
43 or under ORS 183.484, if the determination is one of a state agency.

44 “(2) A person is adversely affected under subsection (1) of this section if the person:

45 “(a) Is an owner of the property that is the subject of the final determination; or

1 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF
2 ANY, UNDER [ORS 197.352] **SECTIONS 2, 3 AND 5 TO 22 OF THIS 2007 ACT.**'

3 "(2) In all owner's sale agreements and earnest money receipts, there shall be included in the
4 body of the instrument the following statement: 'THE PROPERTY DESCRIBED IN THIS INSTRU-
5 MENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES.
6 THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR
7 FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND
8 THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS
9 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON
10 TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY,
11 UNDER [ORS 197.352] **SECTIONS 2, 3 AND 5 TO 22 OF THIS 2007 ACT.** BEFORE SIGNING OR
12 ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
13 SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO
14 VERIFY APPROVED USES, THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND
15 THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER [ORS 197.352]
16 **SECTIONS 2, 3 AND 5 TO 22 OF THIS 2007 ACT.**'

17 "(3) In all owners' sale agreements and earnest money receipts subject to ORS 358.505, there
18 shall be included in the body of the instrument or by addendum the following statement: 'THE
19 PROPERTY DESCRIBED IN THIS INSTRUMENT IS SUBJECT TO SPECIAL ASSESSMENT UN-
20 DER ORS 358.505. ORS 358.515 REQUIRES NOTIFICATION TO THE STATE HISTORIC PRESER-
21 VATION OFFICER OF SALE OR TRANSFER OF THIS PROPERTY.'

22 "(4) An action may not be maintained against the county recording officer for recording an in-
23 strument that does not contain the statement required in subsection (1) or (2) of this section.

24 "(5) An action may not be maintained against any person for failure to include in the instrument
25 the statement required in subsection (1) or (2) of this section, or for recording an instrument that
26 does not contain the statement required in subsection (1) or (2) of this section, unless the person
27 acquiring or agreeing to acquire fee title to the real property would not have executed or accepted
28 the instrument but for the absence in the instrument of the statement required by subsection (1) or
29 (2) of this section. An action may not be maintained by the person acquiring or agreeing to acquire
30 fee title to the real property against any person other than the person transferring or contracting
31 to transfer fee title to the real property.

32 "**SECTION 25. The unit captions used in this 2007 Act are provided only for the conven-**
33 **ience of the reader and do not become part of the statutory law of this state or express a**
34 **legislative intent in the enactment of this 2007 Act.**

35 "**SECTION 26. This 2007 Act shall be submitted to the people for their approval or re-**
36 **jection at a special election held throughout this state as provided in chapter _____,**
37 **Oregon Laws 2007 (Enrolled _____ Bill _____).**".