

SENATE AMENDMENTS TO B-ENGROSSED HOUSE BILL 3540

By JOINT COMMITTEE ON WAYS AND MEANS

June 1

- 1 On page 2 of the printed B-engrossed bill, delete lines 19 through 21 and insert:
- 2 “(c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on the
3 date of adjournment sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly
4 is:
- 5 “(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation
6 issued by the Water Resources Department;
- 7 “(B) Within the boundaries of a district, as defined in ORS 540.505; or
- 8 “(C) Within the boundaries of a diking district formed under ORS chapter 551.”.
- 9 Delete lines 41 through 45 and insert:
- 10 “(11) ‘High-value forestland’ means land:
- 11 “(a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon
12 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per
13 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-
14 mercial tree species; or
- 15 “(b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon
16 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year
17 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial
18 tree species.”.
- 19 On page 3, delete lines 1 through 3.
- 20 Delete lines 6 through 10 and insert:
- 21 “(13) ‘Just compensation’ means:
- 22 “(a) Relief under sections 5 to 11 of this 2007 Act for land use regulations enacted on or before
23 January 1, 2007; and
- 24 “(b) Relief under sections 12 to 14 of this 2007 Act for land use regulations enacted after Jan-
25 uary 1, 2007.”.
- 26 In line 19, after “(e)” insert “A provision of the Oregon Forest Practices Act or”.
- 27 In line 21, after “(f)” insert “ORS 561.191, a provision of ORS 568.900 to 568.933 or”.
- 28 In line 22, delete the second “or”.
- 29 In line 24, delete the period and insert “; or
- 30 “(h) A provision of a Metro functional plan that restricts the residential use of private real
31 property.”.
- 32 In line 25, delete “a city or” and insert “Metro, a city or a”.
- 33 In line 44, after the comma insert “Metro,”.
- 34 On page 4, line 16, delete “revise” and insert “modify”.
- 35 In line 27, delete “unfairly”.

1 In line 28, delete “as described in section 12 (2) of this 2007 Act”.

2 On page 5, line 28, delete “May 15” and insert “January 1”.

3 In line 29, delete “public” and insert “human”.

4 In line 31, delete “May 15” and insert “January 1”.

5 In line 38, delete “5 to 22” and insert “12 to 14”.

6 In line 44, delete “5 to 22” and insert “12 to 14”.

7 On page 6, restore line 31 and delete “(13)” and insert “(9)”.

8 Restore line 32.

9 Delete lines 33 and 34.

10 Delete line 37 and insert “ON OR BEFORE THE DATE OF ADJOURNMENT SINE DIE OF

11 THE 2007 REGULAR SESSION OF THE SEVENTY-FOURTH LEGISLATIVE ASSEMBLY”.

12 In line 40, delete “before May 15, 2007,” and insert “on or before the date of adjournment sine

13 die of the 2007 regular session of the Seventy-fourth Legislative Assembly”.

14 On page 7, line 10, delete “before May 15, 2007,” and insert “on or before the date of

15 adjournment sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly”.

16 In line 30, delete “information” and insert “form”.

17 On page 8, line 16, delete “obtain” and insert “seek”.

18 In line 20, after “to” insert “the review of”.

19 In line 21, delete “before May 15, 2007,” and insert “on or before the date of adjournment sine

20 die of the 2007 regular session of the Seventy-fourth Legislative Assembly”.

21 In line 43, delete “information” and insert “form”.

22 On page 9, line 21, after “is” insert “equal to or”.

23 In line 22, after “that” delete the rest of the line and insert “may be established on the property

24 under subsection (2) of this section”.

25 In line 23, delete “Act”.

26 On page 10, line 5, after “of” insert “preparing the claim, including the cost of”.

27 In line 7, delete “or licensed”.

28 In line 21, delete “obtain” and insert “seek”.

29 In line 25, after “to” insert “the review of”.

30 Delete lines 26 through 43 and insert:

31 **“SECTION 8.** (1) No later than 120 days after the effective date of this 2007 Act, the Depart-

32 ment of Land Conservation and Development shall send notice to all the following claimants that

33 filed a claim for property outside an urban growth boundary:

34 “(a) A claimant whose claim was denied by the state before the effective date of this 2007 Act,

35 but who may become eligible for just compensation because of section 21 (2) of this 2007 Act or any

36 other provision of sections 5 to 22 of this 2007 Act;

37 “(b) A claimant whose claim was approved by the state before the effective date of this 2007

38 Act; and

39 “(c) A claimant whose claim has not been approved or denied by the state before the effective

40 date of this 2007 Act.

41 “(2) The notice required by subsection (1) of this section must:

42 “(a) Explain the claimant’s options if the claimant wishes to subdivide, partition or establish a

43 dwelling on the property under sections 5 to 22 of this 2007 Act;

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

45 “(c) Provide a form for the claimant’s use.

1 “(3) A claimant must choose whether to proceed under section 6 or 7 of this 2007 Act by filing
2 the form provided by the department within 90 days after the date the department mails the notice
3 and form required under subsection (1) of this section. In addition, the claimant must file any in-
4 formation required in the notice. If the claimant fails to file the form within 90 days after the date
5 the department mails the notice, the claimant is not entitled to relief under section 6 or 7 of this
6 2007 Act.”.

7 In line 44, delete “(3)” and insert “(4)”.

8 In line 45, delete “information” and insert “forms” and delete “(2)” and insert “(3)”.

9 On page 11, line 1, delete “information” and insert “form”.

10 In line 2, delete “(2)” and insert “(3)”.

11 In line 10, before the period insert “in the same manner as prescribed by this section for the
12 processing of claims by the department”.

13 In line 12, delete “(4)” and insert “(5)”.

14 In line 14, after the second “of” insert “preparing the claim, including the cost of”.

15 In line 21, after the period delete the rest of the line and lines 22 and 23 and insert “If a county
16 is processing the claim, the county may impose a fee for the review of a claim under section 7 of
17 this 2007 Act in an amount that does not exceed the actual and reasonable cost of the review.”.

18 In line 24, delete “(5)” and insert “(6)”.

19 Delete line 25 and insert “with careful review of the claim.”.

20 In line 29, delete “(6)” and insert “(7)”.

21 In line 38, delete “before the effective date” and insert “on or before the date of adjournment
22 sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly”.

23 In line 39, delete “of this 2007 Act”.

24 In line 45, delete “the city or the” and insert “Metro, a city or a”.

25 On page 12, line 2, delete “the city or county” and insert “Metro, a city or a county”.

26 In line 10, delete “the city” and insert “Metro, a city”.

27 In line 11, delete the first “the” and insert “a”.

28 In line 12, delete “the city or county” and insert “Metro, a city or a county”.

29 In line 17, delete “the city or the county” and insert “Metro, a city or a county”.

30 In line 18, delete “the city or” and insert “Metro, a city or a”.

31 In line 22, delete “the city or the county” and insert “Metro, a city or a county”.

32 After line 35, insert:

33 “(i) If the property is located within the boundaries of Metro, the land use regulation that is the
34 basis for the claim was enacted after the date the property was included within the boundaries of
35 Metro;”.

36 In line 36, delete “(i)” and insert “(j)”.

37 In line 38, delete “(j)” and insert “(k)”.

38 In line 40, after “is” insert “equal to or”.

39 In line 41, after “dwellings” delete the rest of the line and insert “that may be established on
40 the property”.

41 In line 42, delete “wise be entitled to”.

42 On page 13, line 23, after the first “of” insert “preparing the claim, including the cost of”.

43 In line 25, delete “or licensed”.

44 Delete lines 33 through 38 and insert:

45 “(9) When Metro, a city or a county has issued a final decision authorizing one or more single-

1 family dwellings under this section on the portion of the property located within the urban growth
2 boundary, the claimant may seek other governmental authorizations required by law for that use,
3 and a land use regulation enacted by a public entity that has the effect of prohibiting the use does
4 not apply to the review of those authorizations, except as provided in section 11 of this 2007 Act.
5 If Metro is reviewing a claim for a property, and a city or a county is reviewing a claim for the
6 same property, Metro and the city or county shall coordinate the review and decisions and may:

7 “(a) Provide that one of the public entities be principally responsible for the review; and

8 “(b) Provide that the decision of each of the public entities is contingent on the decision of the
9 other public entity.”.

10 Delete lines 42 through 45 and insert:

11 “**SECTION 10.** (1) If Metro, a city or a county issued a waiver before the effective date of this
12 2007 Act for property located, in whole or in part, within an urban growth boundary, the public
13 entity that issued the waiver must review the claim, the record on the claim and the waiver to de-
14 termine whether the claimant is entitled to relief under section 9 of this 2007 Act. If the public
15 entity that issued the waiver lacks information needed to determine whether the claimant is entitled
16 to relief, the public entity shall issue a written request to the claimant for the required information.
17 The claimant must file the required information within 90 days after receiving the request. If the
18 claimant does not file the information, the public entity shall review the claim based on the infor-
19 mation that is available. The public entity shall complete a tentative review no later than 240 days
20 after the effective date of this 2007 Act. The public entity shall provide written notice to the
21 claimant, the Department of Land Conservation and Development and any other person entitled to
22 notice of the tentative determination as to whether the claimant qualifies for relief under section 9
23 of this 2007 Act and, if so, the specific number of single-family dwellings that the public entity pro-
24 poses to authorize. The notice must state that the recipient has 15 days to submit evidence or ar-
25 guments in response to the tentative determination, after which the public entity shall make a final
26 determination. A public entity shall make the final determination under this subsection within 300
27 days after the effective date of this 2007 Act.

28 “(2) If Metro, a city or a county has not made a final decision before the effective date of this
29 2007 Act on a claim filed for property located, in whole or in part, within an urban growth bound-
30 ary, the public entity with which the claim was filed shall send notice to the claimant within 90 days
31 after the effective date of this 2007 Act. The notice must:

32 “(a) Explain that the claimant is entitled to seek relief under section 9 of this 2007 Act;

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

34 “(c) Provide a form for the claimant’s use.

35 “(3) Within 120 days after the date the public entity mails notice under subsection (2) of this
36 section, a claimant must notify the public entity if the claimant intends to continue the claim and
37 must file the information required in the notice. If the claimant fails to file the notice and required
38 information with the public entity within 120 days after the date the public entity mails the notice,
39 the claimant is not entitled to relief under section 9 of this 2007 Act.

40 “(4) A public entity that receives a notice from a claimant under subsection (3) of this section
41 shall review the claim, the record on the claim, the notice received from the claimant and the in-
42 formation required under subsection (3) of this section to determine whether the claim demonstrates
43 that the requirements of section 9 of this 2007 Act are satisfied. The public entity shall complete a
44 tentative review no later than 120 days after receipt of the notice from the claimant and shall pro-
45 vide written notice to the claimant, the department and any other person entitled to notice of the

1 tentative determination as to whether the claimant qualifies for relief under section 9 of this 2007
2 Act and, if so, the specific number of single-family dwellings that the public entity proposes to au-
3 thorize. The notice must state that the recipient has 15 days to submit evidence or arguments in
4 response to the tentative determination, after which the public entity shall make a final determi-
5 nation. A public entity shall make the final determination under this subsection within 180 days af-
6 ter receipt of the notice from the claimant.”.

7 On page 14, delete lines 1 through 36.

8 In line 37, delete “(4)” and insert “(5)”.

9 On page 16, line 8, after “filed” insert “, compensation is not due”.

10 In line 11, after “acted” delete the rest of the line and line 12 and insert “after January 1,
11 2007.”.

12 In line 15, after the period insert “Metro, cities and counties may enter into cooperative
13 agreements under ORS chapter 195 to establish a system for the purchase and sale of severable
14 development interests as described in ORS 94.531. A system established under this subsection may
15 provide for the transfer of severable development interests between the jurisdictions of the public
16 entities that are parties to the agreement for the purpose of allowing development to occur in a
17 location that is different from the location in which the development interest arises.”.

18 Delete line 24 and insert “AFTER THE DATE OF ADJOURNMENT SINE DIE OF THE 2007
19 REGULAR SESSION OF THE SEVENTY-FOURTH LEGISLATIVE ASSEMBLY”.

20 In line 28, after “197.352” insert “after the date of adjournment sine die of the 2007 regular
21 session of the Seventy-fourth Legislative Assembly”.

22 In line 34, delete “on or after May 15” and insert “after January 1”.

23 Delete lines 35 through 45 and insert:

24 “(d) The enactment of one or more land use regulations after January 1, 2007, other than land
25 use regulations described in ORS 197.352 (3), has reduced the fair market value of the property.”.

26 On page 17, delete lines 1 and 2.

27 In line 3, delete “(3)” and insert “(2)” and delete “(2)” and insert “(1)”.

28 In line 7, after the period delete the rest of the line and line 8.

29 In line 9, delete “acted within a five-year period.”.

30 In line 18, after the second “of” insert “preparing the claim, including the cost of”.

31 In line 21, delete “or licensed”.

32 In line 27, delete “(4)” and insert “(3)”.

33 In line 30, delete “(5)” and insert “(4)”.

34 In line 31, after “by” insert “Metro,” and delete “city or county” and insert “public entity”.

35 Delete lines 35 through 43 and insert:

36 “(b) Authorize the claimant to use the property without application of the land use regulation
37 to the extent necessary to offset the reduction in the fair market value of the property.

38 “(5) If the claimant establishes that the requirements of subsection (1) of this section are satis-
39 fied and the land use regulation was enacted by state government, as defined in ORS 174.111, the
40 state agency that is responsible for administering the statute, statewide land use planning goal or
41 rule, or the Oregon Department of Administrative Services if there is no state agency responsible
42 for administering the statute, goal or rule, must:

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

44 “(b) Authorize the claimant to use the property without application of the land use regulation
45 to the extent necessary to offset the reduction in the fair market value of the property.”.

1 In line 44, delete “(7)” and insert “(6)”.

2 On page 18, line 1, delete “city, county or state agency” and insert “public entity”.

3 In line 15, delete “Cities and” and insert “Metro, cities,”.

4 In line 17, delete “\$1,000” and insert “the actual and reasonable cost of reviewing the claim”.

5 Delete lines 23 through 26 and insert:

6 “(6) If a claim under section 12 of this 2007 Act is filed with state government, as defined in

7 ORS 174.111, the claim must be filed with the department. If the claim is filed with Metro, a city

8 or a county, the claim must be filed with the chief administrative office of the public entity, or with

9 an individual designated by ordinance, resolution or order of the public entity.”.

10 In line 39, delete “(3)” and insert “(2)”.

11 On page 19, after line 21, insert:

12 “(d) Metro, if the property is located within the urban growth boundary of Metro;”.

13 In line 22, delete “(d)” and insert “(e)”.

14 In line 24, delete “(e)” and insert “(f)”.

15 On page 20, line 17, delete “one of” and insert “made by Metro,”.

16 In line 18, after the period insert “Proceedings for review of a state agency determination under

17 sections 5 to 11 or 12 to 14 of this 2007 Act must be commenced in the county in which the affected

18 property is located. Upon motion of any party to the proceedings, the proceedings may be trans-

19 ferred to any other county with jurisdiction under ORS 183.484 in the manner provided by law for

20 change of venue.”.

21 On page 21, line 4, delete “and the city or county” and insert “, or submits an application for

22 an amendment to the Metro urban growth boundary, and Metro, a city or a county”.

23 In line 20, delete “the sole” and insert “an”.

24 In line 21, delete “at all times during the marriage”.

25 After line 40, insert:

26 **“SECTION 21c. If any part of sections 5 to 22 of this 2007 Act is held to be unconstitu-**

27 **tional or otherwise invalid, all remaining parts of sections 5 to 22 of this 2007 Act shall not**

28 **be affected by the holding and shall remain in full force and effect.”.**

29 In line 45, delete “8 and 13” and insert “5 to 22”.

30
