

# House Bill 3546

Sponsored by Representative MACPHERSON, Senator PROZANSKI

## 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 **as introduced**.

Allows public entity additional \_\_\_\_\_ days to review and act on certain Measure 37 claims before property owner is entitled to just compensation and may file civil action. Requires public entity to issue waiver to certain Measure 37 claimants for specified uses if public entity determines that claimant is otherwise entitled to waiver and claimant releases any other claim under Measure 37.

Appropriates moneys from General Fund to Department of Land Conservation and Development for costs of reviewing Measure 37 claims during extended review period.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to an extension of time for review of demands for compensation by reason of land use  
3 regulations; appropriating money; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 197.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Claimant" means a person that makes a Measure 37 claim.**

8 (b) **"Measure 37 claim" means a written demand for compensation under ORS 197.352.**

9 (c) **"Land use regulation" has the meaning given that term in ORS 197.352.**

10 (d) **"Owner" has the meaning given that term in ORS 197.352.**

11 (e) **"Public entity" has the meaning given that term in ORS 197.352.**

12 (f) **"Waiver" means an action or decision to not apply a land use regulation in response  
13 to a Measure 37 claim.**

14 (2) **Notwithstanding ORS 197.352 (4) and (6), if a Measure 37 claim was made on or after  
15 October 15, 2006, and before December 5, 2006:**

16 (a) **Just compensation under ORS 197.352 is due the owner of the property from the  
17 public entity only if the land use regulation continues to be enforced against the property  
18 \_\_\_\_\_ days after the Measure 37 claim is made to the public entity; and**

19 (b) **The owner of the subject property has a cause of action for compensation under ORS  
20 197.352 (6) only if a land use regulation continues to apply to the subject property more  
21 than \_\_\_\_\_ days after the Measure 37 claim is made.**

22 (3) **Notwithstanding subsection (2) of this section, a public entity shall approve a waiver  
23 as described in this section for a claimant who made a Measure 37 claim on or after October  
24 15, 2006, and before December 5, 2006, if:**

25 (a) **The public entity determines that the claimant is otherwise entitled to the waiver  
26 under ORS 197.352; and**

27 (b) **The claimant executes and delivers to the public entity a release of any other claim  
28 under ORS 197.352 in the form prescribed by subsection (6) of this section.**

**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 (4) If a public entity approves a waiver under subsection (3) of this section, the following  
2 land use regulations that were enacted by the public entity do not apply to the claimant's  
3 use of the property:

4 (a) Land use regulations that prevent the claimant from establishing one single-family  
5 dwelling on a tract as defined in ORS 215.010; or

6 (b) If the tract already contains one or more dwellings, the creation of one additional  
7 parcel as defined in ORS 92.010 and the establishment of one additional dwelling.

8 (5) A waiver under subsection (3) of this section must be approved not more than 210  
9 days after the Measure 37 claim was made to the public entity.

10 (6) A release provided under subsection (3)(b) of this section must be signed by all the  
11 owners of record of the tract for which the waiver is granted, must be notarized and must  
12 contain substantially the following language:

13 \_\_\_\_\_

14  
15 The undersigned owners(s) of the following described real property in \_\_\_\_\_  
16 County: [insert legal description of the tract] has/have elected to establish [a single-family  
17 dwelling on the above described private real property] or [one new parcel and one new  
18 single-family dwelling] in lieu of any other claim, demand or cause of action the owner or  
19 owners now have, or may in the future have, for compensation under ORS 197.352. The owner  
20 or owners hereby release any other claim, demand or cause of action that the owner or  
21 owners may have now or in the future against a public entity under ORS 197.352. This release  
22 runs with the land and binds all heirs, successors and assigns of the owner or owners.  
23 \_\_\_\_\_

24  
25 (7) A public entity that receives a release under subsection (3)(b) of this section may  
26 record the release in the deed records of the county if the public entity issues a waiver as  
27 described in subsections (3) and (4) of this section.

28 **SECTION 3.** There is appropriated to the Department of Land Conservation and Devel-  
29 opment, for the biennium beginning July 1, 2007, out of the General Fund, the amount of  
30 \$\_\_\_\_\_ for the purpose of paying the costs of the department related to review of written  
31 demands for compensation under ORS 197.352 during the extended review period provided by  
32 section 2 of this 2007 Act.

33 **SECTION 4.** This 2007 Act being necessary for the immediate preservation of the public  
34 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
35 on its passage.  
36 \_\_\_\_\_