

House Bill 3569

Sponsored by Representatives BERGER, CLEM (at the request of former Governor Victor Atiyeh, former Governor Barbara Roberts, John D. Grey)

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**.

Establishes temporary limitation on permits that may be granted for development pursuant to waiver of land use regulations. Authorizes transfer of certain permits.

Sunsets December 6, 2007.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to compensation for land use regulations; and declaring an emergency.

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

4 **SECTION 1. As used in this section and section 2 of this 2007 Act:**

5 (1) **"Claim"** means a written demand for just compensation filed under ORS 197.352.

6 (2) **"Enacted"** means enacted, adopted or amended.

7 (3) **"Ground water restricted area"** means an area designated as a critical ground water
8 area or as a ground water limited area by the Water Resources Department or Water Re-
9 sources Commission before the effective date of this 2007 Act.

10 (4) **"High-value farmland"** means:

11 (a) **High-value farmland as described in ORS 215.710 that is land in an exclusive farm use**
12 **zone or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4)**
13 **and (6) are the effective date of this 2007 Act.**

14 (b) **Land west of U.S. Highway 101 that is composed predominantly of the following soils**
15 **in Class III or IV or composed predominantly of a combination of the soils described in ORS**
16 **215.710 (1) and the following soils:**

17 (A) **Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay**
18 **Loam;**

19 (B) **Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt**
20 **Loam; and**

21 (C) **Subclassification IVw, specifically Huffling Silty Clay Loam.**

22 (c) **Land that is within the place of use for a permit, certificate or decree for the use of**
23 **water for irrigation issued by the Water Resources Department or that is within the**
24 **boundaries of an irrigation district.**

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

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

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

30 (B) **The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or**

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

2 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above
3 mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and
4 15 percent, and that is located within:

5 (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178
6 that is within the State of Oregon;

7 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

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

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

12 (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208
13 that is within the State of Oregon.

14 (5) "High-value forestland" means land that is in a forest zone or a mixed farm and forest
15 zone and that:

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

19 (b) Is located in eastern Oregon and composed predominantly of soils capable of produc-
20 ing more than 85 cubic feet per acre per year of wood fiber and 4,000 cubic feet per year of
21 commercial tree species.

22 (6) "Owner" means:

23 (a) The owner of fee title to the property as shown in the deed records of the county
24 where the property is located;

25 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in
26 force for the property; or

27 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable
28 trust, except that when the trust becomes irrevocable only the trustee is the owner.

29 (7) "Public entity" means the state, a county, a city or a metropolitan service district.

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

33 **SECTION 2.** (1) A public entity may issue a permit, pursuant to a waiver, to allow an
34 owner of the property:

35 (a) To subdivide or partition the property into 10 or fewer lots or parcels and to construct
36 a single-family dwelling on each lot or parcel if:

37 (A) The property is not high-value farmland or high-value forestland or in a ground water
38 restricted area; and

39 (B) The number of lots and parcels and the number of dwellings does not exceed the
40 number of lots and parcels and the number of dwellings authorized by the waiver.

41 (b) To partition the property into three or fewer parcels and to construct a single-family
42 dwelling on each parcel on each parcel if:

43 (A) The property is high-value farmland or high-value forestland or in a ground water
44 restricted area; and

45 (B) The number of parcels and the number of dwellings does not exceed the number of

1 parcels and the number of dwellings authorized by the waiver.

2 (2) A permit to subdivide or partition private real property for residential development
3 described in subsection (1) of this section may be sold, transferred or otherwise conveyed.

4 (3) A permit described in subsection (1) of this section may not authorize more than one
5 dwelling on a lot or parcel.

6 (4) A public entity may not issue a permit for residential development of private real
7 property pursuant to a waiver except as provided in this section.

8 (5) An owner of private real property who:

9 (a) Received a waiver to allow residential use of the property in excess of the limits de-
10 scribed in this section may apply to partition or subdivide the property and establish
11 dwellings only as described in this section.

12 (b) Prior to the effective date of this 2007 Act, submitted a permit application under ORS
13 215.416 or 227.175 to subdivide the property in excess of the limits described in this section
14 pursuant to a waiver may amend the permit application to conform to the requirements of
15 this section.

16 (6) The deadline for issuing a final decision described in ORS 215.427 (1) or 227.178 (1) is
17 extended by a period equal to the number of days between the effective date of this 2007 Act
18 and the date the city or county receives an amended application pursuant to subsection (5)
19 of this section.

20 **SECTION 3.** Sections 1 and 2 of this 2007 Act are repealed on December 6, 2007.

21 **SECTION 4.** This 2007 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
23 on its passage.
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