

# Senate Bill 505

Sponsored by Senator PROZANSKI, Representative MACPHERSON (at the request of Governor Theodore R. Kulongoski)

## 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**.

Except for written demands for compensation for land use regulations seeking to build one single-family dwelling or divide land for purpose of building one single-family dwelling, temporarily stops time periods relating to written demands for compensation until June 30, 2007, or adjournment sine die, whichever occurs first.

Preserves rights of claimants who die during time period temporarily stopped.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to claims for compensation for land use regulation under ORS 197.352; and declaring an  
3 emergency.

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

5 **SECTION 1. (1) Section 2 of this 2007 Act does not apply to a written demand for com-**  
6 **pen- sation made under ORS 197.352 or to a use of private real property allowed based on a**  
7 **waiver if the following requirements are met:**

8 (a) **The use of the private real property that is restricted according to the demand or**  
9 **that is authorized by the waiver is:**

10 (A) **The establishment of one single-family dwelling on a tract; or**

11 (B) **If a tract already contains one or more dwellings, the establishment of one additional**  
12 **single-family dwelling and the partition of the tract to create a separate parcel on which the**  
13 **dwelling will be located.**

14 (b) **The private real property is located entirely outside an urban growth boundary.**

15 (c) **The State of Oregon, the county in which the private real property is located and any**  
16 **other public entity to which the claim is made determine that the claimant is the owner of**  
17 **the private real property and that the use restricted according to the demand or authorized**  
18 **by a waiver was permitted when the claimant acquired the private real property.**

19 (d) **The claimant provides a release to the county in which the private real property is**  
20 **located. The county must record the release if the public entities approve a waiver that au-**  
21 **thorizes the use described in paragraph (a) of this subsection. The release must contain**  
22 **substantially the following language:**

23 \_\_\_\_\_

24  
25 **My name is \_\_\_\_\_.** I am an owner of the following described real property in  
26 \_\_\_\_\_ County: [insert legal description of the tract that includes the private real  
27 property].

28 **I have elected to establish an additional single-family dwelling on the above-described**

**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 private real property in lieu of any other claim, demand or cause of action I may have for  
 2 compensation under ORS 197.352. I hereby release any other claim, demand or cause of  
 3 action that I may have against a public entity under ORS 197.352. This release runs with the  
 4 land and binds my heirs, successors and assigns.

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5  
 6  
 7 (2) A new judicial action or petition may be filed arising out of the action or failure to  
 8 act of a public entity on a written demand for compensation or a use of private real property  
 9 described in subsection (1) of this section. A new notice of intent to appeal a land use deci-  
 10 sion related to an application of any kind based on a waiver described in subsection (1) of this  
 11 section may be filed under ORS 197.830.

12 **SECTION 2.** (1) Except as provided in section 1 of this 2007 Act, during the period be-  
 13 ginning on or after the effective date of this 2007 Act and ending on June 30, 2007, or the date  
 14 on which the Seventy-fourth Legislative Assembly adjourns sine die, whichever occurs first:

15 (a) The 180-day periods under ORS 197.352 (4) and (6) stop running as to written demands  
 16 for compensation under ORS 197.352 that are pending on or after the effective date of this  
 17 2007 Act. A public entity may continue to receive and review written demands for compen-  
 18 sation under ORS 197.352, but the State of Oregon may not issue a final order and a local  
 19 government may not issue a decision concerning the demand.

20 (b) A new judicial action or petition may not be filed arising out of the action or failure  
 21 to act of a public entity under ORS 197.352. A new notice of intent to appeal a land use de-  
 22 cision related to an application of any kind based on a waiver may not be filed under ORS  
 23 197.830. For a judicial action, petition, or notice of intent to appeal that may not be filed  
 24 under this paragraph, applicable time limits on the judicial action, petition or notice of intent  
 25 to appeal also stop running during the period in which the judicial action, petition or notice  
 26 may not be filed.

27 (c) The two-year period under ORS 197.352 (10) stops running as to a claim that may have  
 28 accrued.

29 (d) Except as provided in subsection (2)(a) of this section:

30 (A) A person may not file, with a state agency or a local government, an application of  
 31 any kind that is based on a waiver. If an application of any kind that is based on a waiver  
 32 was filed before the effective date of this 2007 Act, the state agency may not issue a final  
 33 order and the local government may not issue a decision on the application. All time limita-  
 34 tions related to the applications covered by this paragraph stop running.

35 (B) A person may not use private real property based on a waiver.

36 (2) This section does not affect:

37 (a) The legal rights of an owner of private real property to complete or continue a use  
 38 of private real property that was authorized by a building permit lawfully issued on or before  
 39 January 1, 2007.

40 (b) A judicial action, petition or notice of intent to appeal under ORS 197.830 that was  
 41 filed before the effective date of this 2007 Act.

42 **SECTION 3.** If a claimant is an individual, the right to prosecute the claimant's written  
 43 demand and any rights to use private real property provided by waiver:

44 (1) Are not affected by the death of the claimant if the death occurs on or after the ef-  
 45 fective date of this 2007 Act and on or before June 30, 2007, or on or before the date on which

1 the Seventy-fourth Legislative Assembly adjourns sine die, whichever occurs first; and

2 (2) Pass to the person who acquires the private real property by devise or by operation  
3 of law.

4 **SECTION 4.** As used in sections 1 to 4 of this 2007 Act:

5 (1) "Claimant" means the person or persons who made the written demand to a public  
6 entity under ORS 197.352.

7 (2) "Land use regulation" has the meaning given that term in ORS 197.352.

8 (3) "Owner" has the meaning given that term in ORS 197.352.

9 (4) "Parcel" has the meaning given that term in ORS 92.010.

10 (5) "Public entity" has the meaning given that term in ORS 197.352.

11 (6) "Tract" has the meaning given that term in ORS 215.010.

12 (7) "Urban growth boundary" has the meaning given that term in ORS 195.060.

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

16 **SECTION 5.** (1) Sections 1 to 4 of this 2007 Act are repealed on June 30, 2007, or on the  
17 date the regular session of the Seventy-fourth Legislative Assembly adjourns sine die,  
18 whichever occurs first.

19 (2) All periods and time limitations that stop running pursuant to section 2 of this 2007  
20 Act begin running again on June 30, 2007, or on the date the regular session of the  
21 Seventy-fourth Legislative Assembly adjourns sine die, whichever occurs first.

22 **SECTION 6.** This 2007 Act being necessary for the immediate preservation of the public  
23 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect  
24 on its passage.