

Senate Bill 833

Sponsored by Senator PROZANSKI, Representative MACPHERSON (at the request of Association of Oregon Counties)

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 360 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. Sunsets January 2, 2009.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

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

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

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

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

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

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

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

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

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

15 (a) **Just compensation under ORS 197.352 is due the owner of the property from the**
16 **public entity only if the land use regulation continues to be enforced against the property**
17 **540 days after the Measure 37 claim is made to the public entity; and**

18 (b) **The owner of the subject property has a cause of action for compensation under ORS**
19 **197.352 (6) only if a land use regulation continues to apply to the subject property more than**
20 **540 days after the Measure 37 claim is made.**

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

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

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

28 (4) **If a public entity approves a waiver under subsection (3) of this section, the following**

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 land use regulations that were enacted by the public entity do not apply to the claimant's
2 use of the property:

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

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

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

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

12 _____
13
14 The undersigned owners(s) of the following described real property in _____
15 County: [insert legal description of the tract] has/have elected to establish [a single-family
16 dwelling on the above described private real property] or [one new parcel and one new
17 single-family dwelling] in lieu of any other claim, demand or cause of action the owner or
18 owners now have, or may in the future have, for compensation under ORS 197.352. The owner
19 or owners hereby release any other claim, demand or cause of action that the owner or
20 owners may have now or in the future against a public entity under ORS 197.352. This release
21 runs with the land and binds all heirs, successors and assigns of the owner or owners.

22 _____
23
24 (7) A public entity that receives a release under subsection (3)(b) of this section may
25 record the release in the deed records of the county if the public entity issues a waiver as
26 described in subsections (3) and (4) of this section.

27 **SECTION 3.** Section 1 of this 2007 Act is repealed on January 2, 2009.

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