

Joint Committee on Ways and Means

Carriers – House: Reps. Nolan/Hanna  
Carrier – Senate: Sen. Walker

Revenue: No revenue impact

Fiscal: Fiscal statement issued

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Action: Do Pass the A-Engrossed Measure as Amended and Be Printed B-Engrossed

Vote: 19 – 0 – 3

House

Yeas: Buckley, Galizio, Garrard, Gilman, Komp, Kotek, Richardson, Shields, G. Smith

Nays:

Exc: D. Edwards, Jenson, Nathanson

Senate

Yeas: Bates, Carter, Girod, Johnson, Monroe, Nelson, Verger, Walker, Whitsett, Winters

Nays:

Exc:

Prepared By: Laurie Byerly, Legislative Fiscal Office

Meeting Date: June 2, 2009

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**WHAT THE MEASURE DOES:** Provides process for a number (approximately 500) of Measure 49 claims to proceed that would otherwise be precluded; these are claims that were not previously determined based on merit. Sets a \$175 processing fee. Sets deadline for issuance of final orders by the Department of Land Conservation and Development (DLCD). Directs DLCD to investigate claims processing. Allows DLCD to advance hardship cases. Allows DLCD to use existing county records. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Need to provide mechanism to help claimants that may have been misled by government officials
- Confusion about some provisions of Measure 49
- Intent and spirit of Measure 49
- Appropriateness of fee to help defray costs

**EFFECT OF COMMITTEE AMENDMENT:** Clarifies relief path for potential claimants whose property is 1) split by an urban growth boundary, or 2) within the boundaries of a city but outside any urban growth boundary. The number of individuals with claims falling under these conditions is expected to be less than 15.

**BACKGROUND:** In 2004, Measure 37 was approved requiring compensation for property devaluations caused by land use regulations that took effect after a claimant took ownership of a property, or allowing waiver of the causal regulation/s. Most claims were resolved by waiver because no funding was provided for compensation. In late 2006, upwards of 7,000 claims had been filed with counties.

Then Measure 49 passed in 2007 to modify Measure 37, allowing for compensation in the form of buildable home sites and limiting the number of claims to a maximum of ten such sites. Measure 49 offered three different development alternatives for existing claimants: They could settle via an “express” or “conditional” process, or they could proceed with their claim via a “vested rights” process. The express process allowed for up to three home sites outside of an urban growth boundary, and the conditional process allowed for up to ten. Development rights were transferrable for those who chose either of the settlement options, and the conditional process required property owners to demonstrate that land use regulations caused devaluation in an amount equal to or greater than the number of home sites sought. Measure 49 also established process for future claims.

Of the alternatives available under Measure 49, most claimants chose the “express” process, for development of up to three homes. However, the timely filing and maintenance of claims has been criticized as confusing and cumbersome for claimants, and the processing of each individual claim is extremely resource-intensive for DLCD.