

Senate Bill 429

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

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**.

Eliminates option in destination resort development in eastern Oregon of guaranteeing construction of overnight lodging units by surety bonding as condition precedent to sale of individual homes, units or lots. Requires actual construction of overnight units prior to sale of individual homes, units or lots.

A BILL FOR AN ACT

1
2 Relating to destination resorts; creating new provisions; and amending ORS 197.445, 197.455 and
3 197.465.

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

5 **SECTION 1.** ORS 197.445 is amended to read:

6 197.445. (1) A destination resort is a self-contained development that provides for visitor-
7 oriented accommodations and developed recreational facilities in a setting with high natural amen-
8 ities. To qualify as a destination resort under ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and
9 215.284, a proposed development must meet the following standards:

10 [(1)] (a) The resort must be located on a site of 160 acres or more except within two miles of
11 the ocean shoreline where the site shall be 40 acres or more.

12 [(2)] (b) At least 50 percent of the site must be dedicated to permanent open space, excluding
13 streets and parking areas.

14 [(3)] (c) At least \$7 million must be spent on improvements for on-site developed recreational
15 facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities
16 and roads. Not less than one-third of this amount must be spent on developed recreational facilities.

17 [(4)] (d) Visitor-oriented accommodations including meeting rooms, restaurants with seating for
18 100 persons and 150 separate rentable units for overnight lodging shall be provided. However, the
19 rentable overnight lodging units may be [*phased in*] **developed** as follows:

20 [(a)] (A) On lands not described in [*paragraph (b) of this subsection*] **subparagraph (B) of this**
21 **paragraph:**

22 [(A)] (i) A total of 150 units of overnight lodging must be provided.

23 [(B)] (ii) At least 75 units of overnight lodging, not including any individually owned homes, lots
24 or units, must be constructed or guaranteed through surety bonding or equivalent financial assur-
25 ance prior to the closure of sale of individual lots or units.

26 [(C)] (iii) The remaining overnight lodging units must be provided as individually owned lots or
27 units subject to deed restrictions that limit their use to use as overnight lodging units. The deed
28 restrictions may be rescinded when the resort has constructed 150 units of permanent overnight
29 lodging as required by this [*subsection*] **paragraph.**

30 [(D)] (iv) The number of units approved for residential sale may not be more than two units for

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 each unit of permanent overnight lodging provided under this *[paragraph]* **subparagraph.**

2 [(E)] (v) The development approval must provide for the construction of other required overnight
3 lodging units within five years of the initial lot sales.

4 [(b)] (B) On lands in eastern Oregon, as defined in ORS 321.805:

5 [(A) A total of 150 units of overnight lodging must be provided.]

6 [(B) At least 50 units of overnight lodging must be constructed prior to the closure of sale of in-
7 dividual lots or units.]

8 [(C) At least 50 of the remaining 100 required overnight lodging units must be constructed or
9 guaranteed through surety bonding or equivalent financial assurance within five years of the initial lot
10 sales.]

11 [(D) The remaining required overnight lodging units must be constructed or guaranteed through
12 surety bonding or equivalent financial assurances within 10 years of the initial lot sales.]

13 [(E) The number of units approved for residential sale may not be more than 2-1/2 units for each
14 unit of permanent overnight lodging provided under this paragraph.]

15 [(F) If the developer of a resort guarantees the overnight lodging units required under subpara-
16 graphs (C) and (D) of this paragraph through surety bonding or other equivalent financial assurance,
17 the overnight lodging units must be constructed within four years of the date of execution of the surety
18 bond or other equivalent financial assurance.]

19 (i) **A total of 150 units of overnight lodging must be provided and all overnight lodging**
20 **units must be constructed prior to the closure of sale of individual lots or units.**

21 (ii) **The number of units approved for residential sale may not be more than one unit for**
22 **every two units of permanent overnight lodging provided under this subparagraph.**

23 [(5)] (e) Commercial uses allowed are limited to types and levels of use necessary to meet the
24 needs of visitors to the development. Industrial uses of any kind are not permitted.

25 [(6)] (2) In lieu of the standards in *[subsections (1), (3) and (4)]* **subsection (1)(a), (c) and (d)**
26 of this section, the standards set forth in subsection [(7)] (3) of this section apply to a destination
27 resort:

28 (a) On land that is not defined as agricultural or forest land under any statewide planning goal;

29 (b) On land where there has been an exception to any statewide planning goal on agricultural
30 lands, forestlands, public facilities and services and urbanization; or

31 (c) On such secondary lands as the Land Conservation and Development Commission deems ap-
32 propriate.

33 [(7)] (3) The following standards apply to *[the provisions of]* **a destination resort described in**
34 **subsection [(6)] (2) of this section:**

35 (a) The resort must be located on a site of 20 acres or more.

36 (b) At least \$2 million must be spent on improvements for on-site developed recreational facili-
37 ties and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and
38 roads. Not less than one-third of this amount must be spent on developed recreational facilities.

39 (c) At least 25 units, but not more than 75 units, of overnight lodging must be provided.

40 (d) Restaurant and meeting room with at least one seat for each unit of overnight lodging must
41 be provided.

42 (e) Residential uses must be limited to those necessary for the staff and management of the re-
43 sort.

44 (f) The governing body of the county or its designee has reviewed the resort proposed under this
45 subsection and has determined that the primary purpose of the resort is to provide lodging and other

1 services oriented to a recreational resource which can only reasonably be enjoyed in a rural area.
 2 Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing
 3 stream.

4 (g) The resort must be constructed and located so that it is not designed to attract highway
 5 traffic. Resorts may not use any manner of outdoor advertising signing except:

6 (A) Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and

7 (B) On-site identification and directional signs.

8 [(8)] (4) Spending required under subsections (1)(c) **and** (3) [*and* (7)] of this section is stated in
 9 1993 dollars. The spending required shall be adjusted to the year in which calculations are made in
 10 accordance with the United States Consumer Price Index.

11 [(9)] (5) When making a land use decision authorizing construction of a destination resort in
 12 eastern Oregon, as defined in ORS 321.805, the governing body of the county or its designee shall
 13 require the resort developer to provide an annual accounting to document compliance with the
 14 overnight lodging standards of this section. The annual accounting requirement commences one year
 15 after the initial lot or unit sales. The annual accounting must contain:

16 (a) Documentation showing that the resort contains a minimum of 150 permanent units of over-
 17 night lodging [*or, during the phase-in period, documentation showing the resort is not yet required to*
 18 *have constructed 150 units of overnight lodging*].

19 (b) Documentation showing that the resort meets the lodging ratio described in subsection [(4)]
 20 (1)(d) of this section.

21 (c) For a resort counting individually owned units as qualified overnight lodging units, the
 22 number of weeks that each overnight lodging unit is available for rental to the general public as
 23 described in ORS 197.435.

24 **SECTION 2.** ORS 197.455 is amended to read:

25 197.455. (1) A destination resort must be sited on lands mapped as eligible for destination resort
 26 siting by the affected county. The county may not allow destination resorts approved pursuant to
 27 ORS 197.435 to 197.467 to be sited in any of the following areas:

28 (a) Within 24 air miles of an urban growth boundary with an existing population of 100,000 or
 29 more unless residential uses are limited to those necessary for the staff and management of the re-
 30 sort.

31 (b)(A) On a site with 50 or more contiguous acres of unique or prime farmland identified and
 32 mapped by the United States Natural Resources Conservation Service, or its predecessor agency.

33 (B) On a site within three miles of a high value crop area unless the resort complies with the
 34 requirements of ORS 197.445 [(6)] (2) in which case the resort may not be closer to a high value crop
 35 area than one-half mile for each 25 units of overnight lodging or fraction thereof.

36 (c) On predominantly Cubic Foot Site Class 1 or 2 forestlands as determined by the State
 37 Forestry Department, which are not subject to an approved goal exception.

38 (d) In the Columbia River Gorge National Scenic Area as defined by the Columbia River Gorge
 39 National Scenic Act, P.L. 99-663.

40 (e) In an especially sensitive big game habitat area as determined by the State Department of
 41 Fish and Wildlife in July 1984 or as designated in an acknowledged comprehensive plan.

42 (2) In carrying out subsection (1) of this section, a county shall adopt, as part of its compre-
 43 hensive plan, a map consisting of eligible lands within the county. The map must be based on rea-
 44 sonably available information and may be amended pursuant to ORS 197.610 to 197.625, but not more
 45 frequently than once every 30 months. The county shall develop a process for collecting and pro-

1 censing concurrently all map amendments made within a 30-month planning period. A map adopted
2 pursuant to this section shall be the sole basis for determining whether tracts of land are eligible
3 for destination resort siting pursuant to ORS 197.435 to 197.467.

4 **SECTION 3.** ORS 197.465 is amended to read:

5 197.465. An acknowledged comprehensive plan that allows for siting of a destination resort shall
6 include implementing measures *[which]* **that**:

7 (1) Map areas where a destination resort described in ORS 197.445 *[(1) to (5)]* **(1)(a) to (e)** is
8 permitted pursuant to ORS 197.455;

9 (2) Limit uses and activities to those defined by ORS 197.435 and allowed by ORS 197.445; and

10 (3) *[Assure]* **Ensure** that developed recreational facilities and key facilities intended to serve the
11 entire development and visitor-oriented accommodations are physically provided or are guaranteed
12 through surety bonding or substantially equivalent financial assurances prior to closure of sale of
13 individual lots or units. In phased developments, developed recreational facilities and other key fa-
14 cilities intended to serve a particular phase shall be constructed prior to sales in that phase or
15 guaranteed through surety bonding.

16 **SECTION 4. The amendments to ORS 197.445 by section 1 of this 2009 Act apply to a**
17 **destination resort for which the siting is approved on or after the effective date of this 2009**
18 **Act.**

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