

**A-Engrossed**  
**Senate Bill 945**

Ordered by the Senate April 23  
Including Senate Amendments dated April 23

Sponsored by Senator PROZANSKI

**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.

*[Corrects erroneous reference in Ballot Measure 49 (2007).]*

**Specifies requirements for eligibility of certain claims filed pursuant to Ballot Measure 49 (2007). Describes procedures by which claimants may pursue relief.**

**Directs Department of Land Conservation and Development to review claims. Directs department to issue final order for claims on or before specified dates.**

**Directs department to investigate certain matters related to filing of claims. Directs department to report findings to interim committee of Legislative Assembly on or before December 31, 2009.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to Ballot Measure 49 (2007) claims; creating new provisions; amending ORS 205.246 and  
3 sections 5, 6, 7, 8 and 11, chapter 424, Oregon Laws 2007; and declaring an emergency.

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

5 **SECTION 1. Sections 2, 3, 4, 5, 6, 7, 8 and 9 of this 2009 Act are added to and made a part**  
6 **of sections 5 to 11, chapter 424, Oregon Laws 2007.**

7 **SECTION 2. (1) Subject to section 7 of this 2009 Act and subsections (2) and (3) of this**  
8 **section, a claimant that filed a timely election under section 8, chapter 424, Oregon Laws**  
9 **2007, to pursue compensation as described in section 5 (3), chapter 424, Oregon Laws 2007,**  
10 **is eligible to pursue relief under this section and section 6, chapter 424, Oregon Laws 2007.**

11 **(2) A claimant is not eligible to pursue relief under this section if the claimant has been**  
12 **determined to have a common law vested right as described in section 5 (3), chapter 424,**  
13 **Oregon Laws 2007, in a final judgment, or final order, that is not subject to further appeal.**

14 **(3) A claimant must elect to pursue relief under this section on or before December 31,**  
15 **2009, in the manner prescribed pursuant to section 6 of this 2009 Act.**

16 **(4) The Department of Land Conservation and Development shall review claims under**  
17 **this section using the procedures established pursuant to section 6 of this 2009 Act.**

18 **SECTION 3. (1) Notwithstanding the requirement in section 5, chapter 424, Oregon Laws**  
19 **2007, that a claim under ORS 195.305 be filed before June 28, 2007, and notwithstanding the**  
20 **requirement in section 6 (7) and 7 (9), chapter 424, Oregon Laws 2007, that a claim comply**  
21 **with applicable rules of the Land Conservation and Development Commission, a claimant is**  
22 **eligible to pursue relief under this section and section 6, chapter 424, Oregon Laws 2007, if**  
23 **the claimant satisfies the requirements of subsection (2) of this section and either:**

24 **(a) Filed a valid claim for just compensation under ORS 195.305 with the appropriate**

**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 county on or before December 4, 2006, and with the state on or after December 4, 2006, and  
2 before December 6, 2007; or

3 (b) Submitted a land use application before June 28, 2007, that was a prerequisite to filing  
4 a valid claim for just compensation on or after December 4, 2006, and filed the claim with the  
5 state before December 6, 2007.

6 (2) A claimant described in subsection (1) of this section is eligible to pursue relief under  
7 this section and section 6, chapter 424, Oregon Laws 2007, if the claimant:

8 (a) Did not receive notice and an opportunity to file an election under section 8 (3),  
9 chapter 424, Oregon Laws 2007, and the claimant makes an election to pursue relief under  
10 this section on or before December 31, 2009, in the manner prescribed pursuant to section 6  
11 of this 2009 Act;

12 (b) Received notice and made a timely election under section 8 (3), chapter 424, Oregon  
13 Laws 2007, to pursue relief under section 7, chapter 424, Oregon Laws, 2007, but received a  
14 preliminary decision of denial from the Department of Land Conservation and Development  
15 before the claimant could submit an appraisal; or

16 (c) Received notice and made a timely election under section 8 (3), chapter 424, Oregon  
17 Laws 2007, to pursue relief under section 6, chapter 424, Oregon Laws, 2007.

18 (3) The Department of Land Conservation and Development shall review claims under  
19 this section using the procedures established pursuant to section 6 of this 2009 Act.

20 **SECTION 4.** (1) Notwithstanding the requirement in sections 5 (1) and 6 (6), chapter 424,  
21 Oregon Laws 2007, that the property be located entirely outside any urban growth boundary  
22 and entirely outside any city, a claimant is eligible to pursue relief under this section if the  
23 majority of the property described in the claim is outside an urban growth boundary and the  
24 claimant made a timely election under section 8 (3), chapter 424, Oregon Laws 2007, to pursue  
25 relief under section 6, chapter 424, Oregon Laws 2007.

26 (2) A claimant described in subsection (1) of this section is eligible to pursue relief under  
27 this section and section 6, chapter 424, Oregon Laws 2007.

28 (3) The Department of Land Conservation and Development shall review claims under  
29 this section using the procedures established pursuant to section 6 of this 2009 Act.

30 **SECTION 5.** (1) Notwithstanding the requirement in section 6 (6), chapter 424, Oregon  
31 Laws 2007, that the claimant must have filed a claim for the property with the state and with  
32 the county in which the property is located, a claimant is eligible to pursue relief under this  
33 section if the claimant filed a claim only with the state and the claimant made a timely  
34 election under section 8 (3), chapter 424, Oregon Laws 2007, to pursue relief under section  
35 6, chapter 424, Oregon Laws 2007.

36 (2) A claimant described in subsection (1) of this section is eligible to pursue relief under  
37 this section and section 6, chapter 424, Oregon Laws 2007.

38 (3) The Department of Land Conservation and Development shall review claims under  
39 this section using the procedures established pursuant to section 6 of this 2009 Act.

40 **SECTION 6.** (1) The Land Conservation and Development Commission shall adopt rules  
41 establishing the procedure for processing eligible claims under sections 2 to 5 of this 2009  
42 Act.

43 (2) The Department of Land Conservation and Development shall issue a final order on  
44 or before December 31, 2010, for claims reviewed under sections 2 to 5 of this 2009 Act.

45 **SECTION 7.** A claimant is not entitled to implement relief under the theory of common

1 law vested right and under sections 5 to 11, chapter 424, Oregon Laws 2007.

2 **SECTION 8.** The Department of Land Conservation and Development shall issue a final  
3 order on or before June 30, 2010, for claims reviewed under section 6 or 7, chapter 424,  
4 Oregon Laws 2007, as those sections were in effect on January 1, 2009.

5 **SECTION 9.** Notwithstanding the requirement of section 8 (4), chapter 424, Oregon Laws  
6 2007, that the Department of Land Conservation and Development review claims in the order  
7 received, upon a recommendation of the Compensation and Conservation Ombudsman ap-  
8 pointed under ORS 195.320 that a hardship exists, made in the discretion of the ombudsman,  
9 the Director of the Department of Land Conservation and Development may, in the dis-  
10 cretion of the director, advance up to 100 claims for priority processing in cases of demon-  
11 strated hardship.

12 **SECTION 10.** Section 5, chapter 424, Oregon Laws 2007, is amended to read:

13 **Sec. 5.** A claimant that filed a claim under ORS [197.352] **195.305** on or before [the date of  
14 adjournment sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly] **June 28,**  
15 **2007**, is entitled to just compensation as provided in:

16 (1) Section 6 or 7 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, at the claimant's election,  
17 if the property described in the claim is located entirely outside any urban growth boundary and  
18 entirely outside the boundaries of any city;

19 (2) Section 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, if the property described in  
20 the claim is located, in whole or in part, within **the boundaries of a city or within** an urban  
21 growth boundary; or

22 (3) A waiver issued before [the effective date of this 2007 Act] **December 6, 2007**, to the extent  
23 that the claimant's use of the property complies with the waiver and the claimant has a common law  
24 vested right on [the effective date of this 2007 Act] **December 6, 2007**, to complete and continue the  
25 use described in the waiver.

26 **SECTION 11.** Section 6, chapter 424, Oregon Laws 2007, is amended to read:

27 **Sec. 6.** (1)(a) A claimant that filed a claim under ORS [197.352] **195.305** on or before [the date  
28 of adjournment sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly] **June**  
29 **28, 2007**, is eligible for three home site approvals on the property if the requirements of this section  
30 and:

31 (A) Sections 8 and 11 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, are met[.];

32 (B) **Section 2 of this 2009 Act and section 11, chapter 424, Oregon Laws 2007, are met;**

33 (C) **Section 3 of this 2009 Act and section 11, chapter 424, Oregon Laws 2007, are met;**

34 (D) **Section 4 of this 2009 Act and section 11, chapter 424, Oregon Laws 2007, are met;**

35 **or**

36 (E) **Section 5 of this 2009 Act and section 11, chapter 424, Oregon Laws 2007, are met.**

37 (b) The procedure for obtaining home site approvals under this section is set forth in section 8  
38 [of this 2007 Act], **chapter 424, Oregon Laws 2007, or, for sections 2 to 5 of this 2009 Act, is**  
39 **established pursuant to section 6 of this 2009 Act.**

40 (2) The number of lots, parcels or dwellings that may be approved for property under this sec-  
41 tion may not exceed the lesser of:

42 (a) The number of lots, parcels or dwellings described in a waiver issued by the state before [the  
43 effective date of this 2007 Act] **December 6, 2007**, or, if a waiver was not issued, the number of lots,  
44 parcels or dwellings described in the claim filed with the state; or

45 (b) Three, except that if there are existing dwellings on the property or the property contains

1 more than one lot or parcel, the number of lots, parcels or dwellings that may be established is re-  
 2 duced so that the combined number of lots, parcels or dwellings, including existing lots, parcels or  
 3 dwellings located on or contained within the property, does not exceed three.

4 (3) Notwithstanding subsection (2) of this section, a claimant that otherwise qualifies for relief  
 5 under this section may establish at least one additional lot, parcel or dwelling on the property. In  
 6 addition, if the number of lots, parcels or dwellings described in a waiver issued by the state before  
 7 *[the effective date of this 2007 Act]* **December 6, 2007**, or, if a waiver was not issued, the number of  
 8 lots, parcels or dwellings described in the claim filed with the state is more than three, the claimant  
 9 may amend the claim to reduce the number to no more than three by filing notice of the amendment  
 10 with the form required by section 8 *[of this 2007 Act]*, **chapter 424, Oregon Laws 2007, or, for**  
 11 **sections 2 to 5 of this 2009 Act, in the manner established pursuant to section 6 of this 2009**  
 12 **Act.**

13 (4) If a claim was for a use other than a subdivision or partition of property, or other than ap-  
 14 proval for establishing a dwelling on the property, the claimant may amend the claim to seek one  
 15 or more home site approvals under this section. A person amending a claim under this subsection  
 16 may not make a claim under section 7 *[of this 2007 Act]*, **chapter 424, Oregon Laws 2007.**

17 (5) If multiple claims were filed for the same property, the number of lots, parcels or dwellings  
 18 that may be established for purposes of subsection (2)(a) of this section is the number of lots, parcels  
 19 or dwellings in the most recent waiver issued by the state before *[the effective date of this 2007*  
 20 *Act]* **December 6, 2007**, or, if a waiver was not issued, the most recent claim filed with the state,  
 21 but not more than three in any case.

22 (6) To qualify for a home site approval under this section, the claimant must have filed a claim  
 23 for the property with both the state and the county in which the property is located. In addition,  
 24 regardless of whether a waiver was issued by the state or the county before *[the effective date of this*  
 25 *2007 Act]* **December 6, 2007**, to qualify for a home site approval under this section the claimant  
 26 must establish that:

27 (a) The claimant is an owner of the property;

28 (b) All owners of the property have consented in writing to the claim;

29 (c) The property is located entirely outside any urban growth boundary and entirely outside the  
 30 boundaries of any city;

31 (d) One or more land use regulations prohibit establishing the lot, parcel or dwelling;

32 (e) The establishment of the lot, parcel or dwelling is not prohibited by a land use regulation  
 33 described in ORS *[197.352 (3)]* **195.305 (3)**; and

34 (f) On the claimant's acquisition date, the claimant lawfully was permitted to establish at least  
 35 the number of lots, parcels or dwellings on the property that are authorized under this section.

36 (7) If the claim was filed after December 4, 2006, to issue a home site approval under this sec-  
 37 tion, the Department of Land Conservation and Development must verify that the claim was filed  
 38 in compliance with the applicable rules of the Land Conservation and Development Commission and  
 39 the Oregon Department of Administrative Services.

40 (8) Except as provided in section 11 *[of this 2007 Act]*, **chapter 424, Oregon Laws 2007**, if the  
 41 Department of Land Conservation and Development has issued a final order with a specific number  
 42 of home site approvals for a property under this section, the claimant may seek other governmental  
 43 authorizations required by law for the partition or subdivision of the property or for the develop-  
 44 ment of any dwelling authorized, and a land use regulation enacted by the state or county that has  
 45 the effect of prohibiting the partition or subdivision, or the dwelling, does not apply to the review

1 of those authorizations.

2 **SECTION 12.** Section 7, chapter 424, Oregon Laws 2007, is amended to read:

3 **Sec. 7.** (1) A claimant that filed a claim under ORS [197.352] **195.305** on or before [*the date of*  
4 *adjournment sine die of the 2007 regular session of the Seventy-fourth Legislative Assembly*] **June 28,**  
5 **2007**, for property that is not high-value farmland or high-value forestland and that is not in a  
6 ground water restricted area is eligible for four to 10 home site approvals for the property if the  
7 requirements of this section and sections 8 and 11 [*of this 2007 Act*], **chapter 424, Oregon Laws**  
8 **2007**, are met. The procedure for obtaining home site approvals under this section is set forth in  
9 section 8 [*of this 2007 Act*], **chapter 424, Oregon Laws 2007.**

10 (2) The number of lots, parcels or dwellings that may be established on the property under this  
11 section may not exceed the lesser of:

12 (a) The number of lots, parcels or dwellings described in a waiver issued by the state before [*the*  
13 *effective date of this 2007 Act*] **December 6, 2007**, or, if a waiver was not issued, the number of lots,  
14 parcels or dwellings described in the claim filed with the state;

15 (b) Ten, except that if there are existing dwellings on the property or the property contains  
16 more than one lot or parcel, the number of lots, parcels or dwellings that may be established is re-  
17 duced, so that the combined number of lots, parcels or dwellings, including existing lots, parcels or  
18 dwellings located on or contained within the property, does not exceed 10; or

19 (c) The number of home site approvals with a total value that represents just compensation for  
20 the reduction in fair market value caused by the enactment of one or more land use regulations that  
21 were the basis for the claim, as set forth in subsection (6) of this section.

22 (3) If the number of lots, parcels or dwellings described in a waiver issued by the state before  
23 [*the effective date of this 2007 Act*] **December 6, 2007**, or, if a waiver was not issued, the number of  
24 lots, parcels or dwellings described in the claim filed with the state is more than 10, the claimant  
25 may amend the claim to reduce the number to no more than 10 by filing notice of the amendment  
26 with the form required by section 8 [*of this 2007 Act*], **chapter 424, Oregon Laws 2007.**

27 (4) If multiple claims were filed for the same property, the number of lots, parcels or dwellings  
28 that may be established for purposes of subsection (2)(a) of this section is the number of lots, parcels  
29 or dwellings in the most recent waiver issued by the state before [*the effective date of this 2007*  
30 *Act*] **December 6, 2007**, or, if a waiver was not issued, the most recent claim filed with the state,  
31 but not more than 10 in any case.

32 (5) To qualify for a home site approval under this section, the claimant must have filed a claim  
33 for the property with both the state and the county in which the property is located. In addition,  
34 regardless of whether a waiver was issued by the state or the county before [*the effective date of this*  
35 *2007 Act*] **December 6, 2007**, to qualify for a home site approval under this section, the claimant  
36 must establish that:

37 (a) The claimant is an owner of the property;

38 (b) All owners of the property have consented in writing to the claim;

39 (c) The property is located entirely outside any urban growth boundary and entirely outside the  
40 boundaries of any city;

41 (d) One or more land use regulations prohibit establishing the lot, parcel or dwelling;

42 (e) The establishment of the lot, parcel or dwelling is not prohibited by a land use regulation  
43 described in ORS [197.352 (3)] **195.305 (3)**;

44 (f) On the claimant's acquisition date, the claimant lawfully was permitted to establish at least  
45 the number of lots, parcels and dwellings on the property that are authorized under this section; and

1 (g) The enactment of one or more land use regulations, other than land use regulations de-  
 2 scribed in ORS [197.352 (3)] **195.305 (3)**, that are the basis for the claim caused a reduction in the  
 3 fair market value of the property that is equal to or greater than the fair market value of the home  
 4 site approvals that may be established on the property under subsection (2) of this section, with the  
 5 reduction in fair market value measured as set forth in subsection (6) of this section.

6 (6) The reduction in the fair market value of the property caused by the enactment of one or  
 7 more land use regulations that were the basis for the claim is equal to the decrease, if any, in the  
 8 fair market value of the property from the date that is one year before the enactment of the land  
 9 use regulation to the date that is one year after the enactment, plus interest. If the claim is based  
 10 on the enactment of more than one land use regulation enacted on different dates, the reduction in  
 11 the fair market value of the property caused by each regulation shall be determined separately and  
 12 the values added together to calculate the total reduction in fair market value. The reduction in fair  
 13 market value shall be adjusted by any ad valorem property taxes not paid as a result of any special  
 14 assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.700 to 321.754  
 15 or 321.805 to 321.855, plus interest, offset by any severance taxes paid by the claimant and by any  
 16 recapture of potential additional tax liability that the claimant has paid or will pay for the property  
 17 if the property is disqualified from special assessment under ORS 308A.703. Interest shall be com-  
 18 puted under this subsection using the average interest rate for a one-year United States Government  
 19 Treasury Bill on December 31 of each year of the period between the date the land use regulation  
 20 was enacted and the date the claim was filed, compounded annually on January 1 of each year of  
 21 the period.

22 (7) For the purposes of subsection (6) of this section, a claimant must provide an appraisal  
 23 showing the fair market value of the property one year before the enactment of the land use regu-  
 24 lation that was the basis for the claim and the fair market value of the property one year after the  
 25 enactment. The appraisal also must show the fair market value of each home site approval to which  
 26 the claimant is entitled under [section 6 (2) of this 2007 Act] **subsection (2) of this section**, along  
 27 with evidence of any ad valorem property taxes not paid, any severance taxes paid and any recap-  
 28 ture of additional tax liability that the claimant has paid or will pay for the property if the property  
 29 is disqualified from special assessment under ORS 308A.703. The actual and reasonable cost of pre-  
 30 paring the claim, including the cost of the appraisal, not to exceed \$5,000, may be added to the  
 31 calculation of the reduction in fair market value under subsection (6) of this section. The appraisal  
 32 must:

33 (a) Be prepared by a person certified under ORS chapter 674 or a person registered under ORS  
 34 chapter 308;

35 (b) Comply with the Uniform Standards of Professional Appraisal Practice, as authorized by the  
 36 Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

37 (c) Expressly determine the highest and best use of the property at the time the land use regu-  
 38 lation was enacted.

39 (8) Relief may not be granted under this section if the highest and best use of the property was  
 40 not residential use at the time the land use regulation was enacted.

41 (9) If the claim was filed after December 4, 2006, to issue a home site approval under this sec-  
 42 tion, the Department of Land Conservation and Development must verify that the claim was filed  
 43 in compliance with the applicable rules of the Land Conservation and Development Commission and  
 44 the Oregon Department of Administrative Services.

45 (10) Except as provided in section 11 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, if the

1 Department of Land Conservation and Development has issued a final order with a specific number  
 2 of home site approvals for the property under this section, the claimant may seek other govern-  
 3 mental authorizations required by law for the subdivision or partition of the property or for the  
 4 development of any dwelling authorized, and a land use regulation enacted by the state or county  
 5 that has the effect of prohibiting the subdivision or partition, or the dwelling, does not apply to the  
 6 review of those authorizations.

7 **SECTION 13.** Section 8, chapter 424, Oregon Laws 2007, is amended to read:

8 **Sec. 8.** (1) No later than 120 days after [*the effective date of this 2007 Act*] **December 6, 2007**,  
 9 the Department of Land Conservation and Development shall send notice to all the following  
 10 claimants that filed a claim for property outside an urban growth boundary:

11 (a) A claimant whose claim was denied by the state before [*the effective date of this 2007 Act*]  
 12 **December 6, 2007**, but who may become eligible for just compensation because of [*section 21 (2) of*  
 13 *this 2007 Act*] **ORS 195.328 (2)** or any other provision of [*sections 5 to 22 of this 2007 Act*] **ORS**  
 14 **195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007;**

15 (b) A claimant whose claim was approved by the state before [*the effective date of this 2007*  
 16 *Act*] **December 6, 2007**; and

17 (c) A claimant whose claim has not been approved or denied by the state before [*the effective*  
 18 *date of this 2007 Act*] **December 6, 2007.**

19 (2) The notice required by subsection (1) of this section must:

20 (a) Explain the claimant's options if the claimant wishes to subdivide, partition or establish a  
 21 dwelling on the property under [*sections 5 to 22 of this 2007 Act*] **ORS 195.305 to 195.336 and**  
 22 **sections 5 to 11, chapter 424, Oregon Laws 2007;**

23 (b) Identify any information that the claimant must file; and

24 (c) Provide a form for the claimant's use.

25 (3) A claimant must choose whether to proceed under section 6 or 7 [*of this 2007 Act*], **chapter**  
 26 **424, Oregon Laws 2007**, by filing the form provided by the department within [90] **97** days after the  
 27 date the department mails the notice and form required under subsection (1) of this section. In ad-  
 28 dition, the claimant must file any information required in the notice. If the claimant fails to file the  
 29 form within [90] **97** days after the date the department mails the notice, the claimant is not entitled  
 30 to relief under section 6 or 7 [*of this 2007 Act*], **chapter 424, Oregon Laws 2007.**

31 (4) The department shall review the claims in the order in which the department receives the  
 32 forms required under subsection (3) of this section. In addition to reviewing the claim, the depart-  
 33 ment shall review the department's record on the claim, the form required under subsection (3) of  
 34 this section, any new material from the claimant and any other information required by [*sections 5*  
 35 *to 22 of this 2007 Act*] **ORS 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws**  
 36 **2007**, to ensure that the requirements of this section and section 6 or 7 [*of this 2007 Act*], **chapter**  
 37 **424, Oregon Laws 2007**, are met. The department shall provide a copy of the material submitted  
 38 by the claimant to the county where the property is located and consider written comments from  
 39 the county that are timely filed with the department. If the department determines that the only land  
 40 use regulations that restrict the claimant's use of the property are regulations that were enacted  
 41 by the county, the department shall transfer the claim to the county where the property is located  
 42 and the claim shall be processed by the county in the same manner as prescribed by this section for  
 43 the processing of claims by the department. The county must consider any written comments from  
 44 the department that are timely filed with the county.

45 (5) If the claimant elects to obtain relief under section 7 [*of this 2007 Act*], **chapter 424, Oregon**

1 **Laws 2007**, the claimant must file an appraisal that establishes the reduction in the fair market  
 2 value of the property as required by section 7 (6) [of this 2007 Act], **chapter 424, Oregon Laws**  
 3 **2007**. The actual and reasonable cost of preparing the claim, including the cost of the appraisal, not  
 4 to exceed \$5,000, may be added to the calculation of the reduction in fair market value under section  
 5 7 (6) [of this 2007 Act], **chapter 424, Oregon Laws 2007**. The appraisal must be filed with the de-  
 6 partment or, if the claim is being processed by the county, with the county within 180 days after the  
 7 date the claimant files the election to obtain relief under section 7 [of this 2007 Act], **chapter 424,**  
 8 **Oregon Laws 2007**. A claimant that elects to obtain relief under section 7 [of this 2007 Act],  
 9 **chapter 424, Oregon Laws 2007**, may change that election to obtain relief under section 6 [of this  
 10 2007 Act], **chapter 424, Oregon Laws 2007**, but only if the claimant provides written notice of the  
 11 change on or before the date the appraisal is filed. If a county is processing the claim, the county  
 12 may impose a fee for the review of a claim under section 7 [of this 2007 Act], **chapter 424, Oregon**  
 13 **Laws 2007**, in an amount that does not exceed the actual and reasonable cost of the review.

14 (6) The department or the county shall review claims as quickly as possible, consistent with  
 15 careful review of the claim. The department shall report to the Joint Legislative Audit Committee  
 16 on or before March 31, 2008, concerning the department's progress and the counties' progress in  
 17 completing review of claims under sections 6 and 7 [of this 2007 Act], **chapter 424, Oregon Laws**  
 18 **2007**.

19 (7) The department's final order and a county's final decision on a claim under section 6 or 7  
 20 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, must either deny the claim or approve the claim.  
 21 If the order or decision approves the claim, the order or decision must state the number of home  
 22 site approvals issued for the property and may contain other terms that are necessary to ensure that  
 23 the use of the property is lawful.

24 **SECTION 14.** Section 11, chapter 424, Oregon Laws 2007, is amended to read:

25 **Sec. 11.** (1) A subdivision or partition of property, or the establishment of a dwelling on prop-  
 26 erty, authorized under sections 5 to 11 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, must  
 27 comply with all applicable standards governing the siting or development of the dwelling, lot or  
 28 parcel including, but not limited to, the location, design, construction or size of the dwelling, lot or  
 29 parcel. However, the standards must not be applied in a manner that has the effect of prohibiting  
 30 the establishment of the dwelling, lot or parcel authorized under sections 5 to 11 [of this 2007 Act],  
 31 **chapter 424, Oregon Laws 2007**, unless the standards are reasonably necessary to avoid or abate  
 32 a nuisance, to protect public health or safety or to carry out federal law.

33 **(2) If the property described in a claim is bisected by an urban growth boundary, any new**  
 34 **dwelling, lot or parcel established on the property pursuant to an order under section 6,**  
 35 **chapter 424, Oregon Laws 2007, must be located on the portion of the property outside the**  
 36 **urban growth boundary.**

37 [(2)] **(3)** Before beginning construction of any dwelling authorized under section 6 or 7 [of this  
 38 2007 Act], **chapter 424, Oregon Laws 2007**, the owner must comply with the requirements of ORS  
 39 215.293 if the property is in an exclusive farm use zone, a forest zone or a mixed farm and forest  
 40 zone.

41 [(3)(a)] **(4)(a)** A city or county may approve the creation of a lot or parcel to contain a dwelling  
 42 authorized under sections 5 to 11 [of this 2007 Act], **chapter 424, Oregon Laws 2007**. However, a  
 43 new lot or parcel located in an exclusive farm use zone, a forest zone or a mixed farm and forest  
 44 zone may not exceed:

45 (A) Two acres if the lot or parcel is located on high-value farmland, on high-value forestland or



1 on land within a ground water restricted area; or

2 (B) Five acres if the lot or parcel is not located on high-value farmland, on high-value forestland  
3 or on land within a ground water restricted area.

4 (b) If the property is in an exclusive farm use zone, a forest zone or a mixed farm and forest  
5 zone, the new lots or parcels created must be clustered so as to maximize suitability of the remnant  
6 lot or parcel for farm or forest use.

7 [(4)] (5) If an owner is authorized to subdivide or partition more than one property, or to es-  
8 tablish dwellings on more than one property, under sections 5 to 11 [of this 2007 Act], **chapter 424,**  
9 **Oregon Laws 2007,** and the properties are in an exclusive farm use zone, a forest zone or a mixed  
10 farm and forest zone, the owner may cluster some or all of the dwellings, lots or parcels on one of  
11 the properties if that property is less suitable than the other properties for farm or forest use. If  
12 one of the properties is zoned for residential use, the owner may cluster some or all of the dwellings,  
13 lots or parcels that would have been located in an exclusive farm use zone, a forest zone or a mixed  
14 farm and forest zone on the property zoned for residential use.

15 [(5)] (6) An owner is not eligible for more than 20 home site approvals under sections 5 to 11  
16 [of this 2007 Act], **chapter 424, Oregon Laws 2007,** regardless of how many properties that person  
17 owns or how many claims that person has filed.

18 [(6)] (7) An authorization to partition or subdivide the property, or to establish dwellings on the  
19 property, granted under section 6, 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007,** runs  
20 with the property and may be either transferred with the property or encumbered by another person  
21 without affecting the authorization. There is no time limit on when an authorization granted under  
22 section 6, 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007,** must be carried out, except  
23 that once the owner who obtained the authorization conveys the property to a person other than  
24 the owner's spouse or the trustee of a revocable trust in which the owner is the settlor, the subse-  
25 quent owner of the property must create the lots or parcels and establish the dwellings authorized  
26 by a waiver under section 6, 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007,** within 10  
27 years of the conveyance. In addition:

28 (a) A lot or parcel lawfully created based on an authorization under section 6, 7 or 9 [of this  
29 2007 Act], **chapter 424, Oregon Laws 2007,** remains a discrete lot or parcel, unless the lot or parcel  
30 lines are vacated or the lot or parcel is further divided, as provided by law; and

31 (b) A dwelling or other residential use of the property based on an authorization under section  
32 6, 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007,** is a permitted use and may be estab-  
33 lished or continued by the claimant or a subsequent owner, except that once the claimant conveys  
34 the property to a person other than the claimant's spouse or the trustee of a revocable trust in  
35 which the claimant is the settlor, the subsequent owner must establish the dwellings or other resi-  
36 dential use authorized under section 6, 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007,**  
37 within 10 years of the conveyance.

38 [(7)] (8) When relief has been claimed under sections 5 to 11 [of this 2007 Act], **chapter 424,**  
39 **Oregon Laws 2007:**

40 (a) Additional relief is not due; and

41 (b) An additional claim may not be filed, compensation is not due and a waiver may not be is-  
42 sued with regard to the property under [sections 5 to 22 of this 2007 Act or ORS 197.352] **ORS**  
43 **195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, or ORS 195.305** as in  
44 effect immediately before [the effective date of this 2007 Act] **December 6, 2007,** except with respect  
45 to a land use regulation enacted after January 1, 2007.

1        [(8)] (9) A person that is eligible to be a holder as defined in ORS 271.715 may acquire the rights  
2 to carry out a use of land authorized under sections 5 to 11 [of this 2007 Act], **chapter 424, Oregon**  
3 **Laws 2007**, from a willing seller in the manner provided by ORS 271.715 to 271.795. Metro, cities  
4 and counties may enter into cooperative agreements under ORS chapter 195 to establish a system  
5 for the purchase and sale of severable development interests as described in ORS 94.531. A system  
6 established under this subsection may provide for the transfer of severable development interests  
7 between the jurisdictions of the public entities that are parties to the agreement for the purpose of  
8 allowing development to occur in a location that is different from the location in which the devel-  
9 opment interest arises.

10        [(9)] (10) If a claimant is an individual, the entitlement to prosecute the claim under section 6,  
11 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007**, and an authorization to use the property  
12 provided by a waiver under section 6, 7 or 9 [of this 2007 Act], **chapter 424, Oregon Laws 2007**:

13        (a) Is not affected by the death of the claimant if the death occurs on or after [the effective date  
14 of this 2007 Act] **December 6, 2007**; and

15        (b) Passes to the person that acquires the property by devise or by operation of law.

16        **SECTION 15.** ORS 205.246, as amended by section 3, chapter 48, Oregon Laws 2008, is amended  
17 to read:

18        205.246. (1) The county clerk shall record the following instruments required or permitted by law  
19 to be recorded and entered in the office of the county clerk:

20        (a) Financing statements recorded in the office of the county clerk under ORS 79.0501 (1)(a);

21        (b) Hospital and physician liens recorded under ORS 87.565;

22        (c) Federal tax liens and certificates and notices affecting federal tax liens recorded under ORS  
23 87.806;

24        (d) Cooperative contracts recorded under ORS 62.360;

25        (e) Special district assessments attaching to real property;

26        (f) Lien foreclosure statements recorded under ORS 87.202;

27        (g) A certified copy of the judgment or a lien record abstract or other liens affecting the title  
28 to real property;

29        (h) Building code exemptions required under ORS 455.320 and 455.345;

30        (i) Construction liens recorded under ORS 87.050;

31        (j) Liens upon chattels recorded under ORS 87.246;

32        (k) Liens on real property recorded under ORS 87.372;

33        (L) Employee benefit plan liens recorded under ORS 87.860;

34        (m) Attorney liens recorded under ORS 87.455 and 87.460;

35        (n) Long term care liens recorded under ORS 87.517;

36        (o) Ambulance services liens recorded under ORS 87.623;

37        (p) Community property records recorded under ORS 108.530;

38        (q) Sheriff transfer of records recorded under ORS 206.100;

39        (r) Corrected instruments required under ORS 205.244;

40        (s) Mineral and mining records required under ORS 517.030, 517.052, 517.160, 517.180, 517.210,  
41 517.220, 517.280, 517.310 and 517.320;

42        (t) Copies of records certified by a county clerk or court clerk;

43        (u) Subdivision and partition plats recorded under ORS 92.140;

44        (v) Condominiums recorded under ORS chapter 100;

45        (w) Requests for notice of transfer or encumbrance or terminations of requests for notice of

1 transfer or encumbrance presented for recordation under ORS 411.694;

2 (x) Bankruptcy documents presented for recordation under ORS 93.770;

3 (y) A written warranty agreement under ORS 701.605; and

4 (z) An order or decision under section 8 (7), chapter 424, Oregon Laws 2007, **or section 6 of**  
5 **this 2009 Act** that is final by operation of law or on appeal.

6 (2) The county clerk shall charge and collect fees specified in ORS 205.320, 205.327 and 205.350  
7 for recording an instrument required to be recorded under subsection (1) of this section.

8 (3) Indexes may be maintained for instruments recorded under subsection (1) of this section in  
9 the same manner as provided in ORS 205.160.

10 **SECTION 16. Section 17 of this 2009 Act is added to and made a part of sections 5 to 11,**  
11 **chapter 424, Oregon Laws 2007.**

12 **SECTION 17. (1) The Department of Land Conservation and Development shall investi-**  
13 **gate:**

14 (a) **The number of claimants that filed claims only with a county under ORS 195.305, as**  
15 **in effect immediately before December 6, 2007; and**

16 (b) **Why the claimants described in paragraph (a) of this subsection filed claims only with**  
17 **the county.**

18 (2) **If requested to do so by the department, a county shall provide the department with**  
19 **a list of the claims described in subsection (1) of this section and copies of the claims.**

20 (3) **The department shall investigate:**

21 (a) **The number of claims that were filed under section 7, chapter 424, Oregon Laws 2007,**  
22 **in which the claimant failed to file an appraisal or to make an election to seek relief under**  
23 **section 6, chapter 424, Oregon Laws 2007; and**

24 (b) **Why the claimants described in paragraph (a) of this subsection failed to file an ap-**  
25 **praisal or to make an election to seek relief under section 6, chapter 424, Oregon Laws 2007.**

26 (4) **The department shall report its findings to an appropriate interim committee of the**  
27 **Legislative Assembly on or before December 31, 2009.**

28 **SECTION 18. The amendments to section 7 (7), chapter 424, Oregon Laws 2007, by section**  
29 **12 of this 2009 Act apply to claims for compensation made before, on or after the effective**  
30 **date of this 2009 Act.**

31 **SECTION 19. This 2009 Act being necessary for the immediate preservation of the public**  
32 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
33 **on its passage.**

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