

Senate Bill 945

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 **as introduced**.

Corrects erroneous reference in Ballot Measure 49 (2007).

A BILL FOR AN ACT

1
2 Relating to Ballot Measure 49 (2007) claims; creating new provisions; and amending section 7,
3 chapter 424, Oregon Laws 2007.

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

5 **SECTION 1.** Section 7, chapter 424, Oregon Laws 2007, is amended to read:

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

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

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

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

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

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

30 (4) If multiple claims were filed for the same property, the number of lots, parcels or dwellings
31 that may be established for purposes of subsection (2)(a) of this section is the number of lots, parcels
32 or dwellings in the most recent waiver issued by the state before [*the effective date of this 2007*

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 *Act*] **December 6, 2007**, or, if a waiver was not issued, the most recent claim filed with the state,
2 but not more than 10 in any case.

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

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

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

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

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

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

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

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

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

38 (7) For the purposes of subsection (6) of this section, a claimant must provide an appraisal
39 showing the fair market value of the property one year before the enactment of the land use regu-
40 lation that was the basis for the claim and the fair market value of the property one year after the
41 enactment. The appraisal also must show the fair market value of each home site approval to which
42 the claimant is entitled under [*section 6 (2) of this 2007 Act*] **subsection (2) of this section**, along
43 with evidence of any ad valorem property taxes not paid, any severance taxes paid and any recap-
44 ture of additional tax liability that the claimant has paid or will pay for the property if the property
45 is disqualified from special assessment under ORS 308A.703. The actual and reasonable cost of pre-

1 paring the claim, including the cost of the appraisal, not to exceed \$5,000, may be added to the
 2 calculation of the reduction in fair market value under subsection (6) of this section. The appraisal
 3 must:

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

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

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

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

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

16 (10) Except as provided in section 11 [*of this 2007 Act*], **chapter 424, Oregon Laws 2007**, if the
 17 Department of Land Conservation and Development has issued a final order with a specific number
 18 of home site approvals for the property under this section, the claimant may seek other govern-
 19 mental authorizations required by law for the subdivision or partition of the property or for the
 20 development of any dwelling authorized, and a land use regulation enacted by the state or county
 21 that has the effect of prohibiting the subdivision or partition, or the dwelling, does not apply to the
 22 review of those authorizations.

23 **SECTION 2. The amendments to section 7, chapter 424, Oregon Laws 2007, apply to**
 24 **claims for compensation made before, on or after the effective date of this 2009 Act.**

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