

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	7 - 0 - 1
Yeas:	Conger, Doherty, Hoyle, Johnson, Matthews, Kennemer, Schaufler
Nays:	0
Exc.:	Esquivel
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	3/18

WHAT THE MEASURE DOES: Modifies provisions that authorize the dedication, conveyance or grant of property in a subdivision or partition process. Establishes legal definition of “tract.”

ISSUES DISCUSSED:

- Rationale behind the measure
- What constitutes a public easement
- Existence of consent affidavits if the measure is enacted

EFFECT OF COMMITTEE AMENDMENT: Removes the definition of “nonbuildable unit,” and establishes a legal definition of “tract.” Establishes a new section that clarifies that a city or county can create one or more tracts when subdividing or portioning land. Clarifies terms and conditions for dedications for a public purpose or a public easement. Modifies usage of the existing term of “tract” in ORS chapters 92, 223, and 545.

BACKGROUND: Oregon statute does not establish a legal definition of a “tract,” although the term has been used since the 1960s in numerous local jurisdictions to typically define units of land created for purposes other than for a building, such as open space or private driveways, and is currently included in some statutes. House Bill 3386-A defines a “tract” as “a unit of land, created by either a subdivision, partition or submission of land to the condominium form of ownership,” that can be used for purposes such as open spaces, wetlands, private roads, utility infrastructure, recreational facilities or other shared public or private uses, and cannot be used for purposes such as residential dwellings or commercial buildings.

House Bill 3386-A also makes a change to how property is conveyed on a plat. While a deed must include an offer by the seller and an acceptance by the buyer of property, there have been examples of property being conveyed on plats to public and private entities without any acceptance, such as conveyances to a local government entity, park district, or homeowners association. The measure establishes that any land in a subdivision may not be transferred by a separate deed unless the grantee actually signs an approval on the face of the plat.

Currently, a developer is to acquire a consent affidavit for the creation of public easements on the face of the plat. However, doing such is often impossible, particularly when the developer has to obtain the affidavit from a large security holder. House Bill 3386-A also eliminates the requirement for the mortgage holder to either sign the plat as a declarant or sign a consent affidavit for the creation of an utility easement on the face of the plat, but continues to require consent affidavits for public right of way.