

HOUSE AMENDMENTS TO HOUSE BILL 3386

By COMMITTEE ON BUSINESS AND LABOR

March 29

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and line 3 and insert
2 “92.010, 92.012, 92.014, 92.050, 92.070, 92.075, 92.150, 92.190, 92.192, 215.010, 223.317 and 545.101.”

3 Delete lines 5 through 31.

4 On page 2, delete lines 1 through 39 and insert:

5 “**SECTION 1.** ORS 92.010 is amended to read:

6 “92.010. As used in ORS 92.010 to 92.192, unless the context requires otherwise:

7 “(1) ‘Declarant’ means the person who files a declaration under ORS 92.075.

8 “(2) ‘Declaration’ means the instrument described in ORS 92.075 by which the subdivision or
9 partition plat was created.

10 “(3)(a) ‘Lawfully established unit of land’ means:

11 “(A) A lot or parcel created pursuant to ORS 92.010 to 92.192; or

12 “(B) Another unit of land created:

13 “(i) In compliance with all applicable planning, zoning and subdivision or partition ordinances
14 and regulations; or

15 “(ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision
16 or partition ordinances or regulations.

17 “(b) ‘Lawfully established unit of land’ does not mean a unit of land created solely to establish
18 a separate tax account.

19 “(4) ‘Lot’ means a single unit of land that is created by a subdivision of land.

20 “(5) ‘Negotiate’ means any activity preliminary to the execution of a binding agreement for the
21 sale of land in a subdivision or partition, including but not limited to advertising, solicitation and
22 promotion of the sale of such land.

23 “(6) ‘Parcel’ means a single unit of land that is created by a partition of land.

24 “(7) ‘Partition’ means either an act of partitioning land or an area [*or tract*] of land partitioned.

25 “(8) ‘Partition plat’ includes a final map and other writing containing all the descriptions, lo-
26 cations, specifications, provisions and information concerning a partition.

27 “(9) ‘Partitioning land’ means dividing land to create not more than three parcels of land within
28 a calendar year, but does not include:

29 “(a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the
30 sale of real property or the creation of cemetery lots;

31 “(b) Adjusting a property line as property line adjustment is defined in this section;

32 “(c) Dividing land as a result of the recording of a subdivision or condominium plat;

33 “(d) Selling or granting by a person to a public agency or public body of property for state
34 highway, county road, city street or other right of way purposes if the road or right of way complies
35 with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). How-

1 ever, any property sold or granted for state highway, county road, city street or other right of way
2 purposes shall continue to be considered a single unit of land until the property is further subdivided
3 or partitioned; or

4 “(e) Selling or granting by a public agency or public body of excess property resulting from the
5 acquisition of land by the state, a political subdivision or special district for highways, county roads,
6 city streets or other right of way purposes when the sale or grant is part of a property line ad-
7 justment incorporating the excess right of way into adjacent property. The property line adjustment
8 shall be approved or disapproved by the applicable local government. If the property line adjustment
9 is approved, it shall be recorded in the deed records of the county where the property is located.

10 “(10) ‘Plat’ includes a final subdivision plat, replat or partition plat.

11 “(11) ‘Property line’ means the division line between two units of land.

12 “(12) ‘Property line adjustment’ means a relocation or elimination of all or a portion of the
13 common property line between abutting properties that does not create an additional lot or parcel.

14 “(13) ‘Replat’ means the act of platting the lots, parcels and easements in a recorded subdivision
15 or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to in-
16 crease or decrease the number of lots in the subdivision.

17 “(14) ‘Road’ or ‘street’ means a public or private way that is created to provide ingress or egress
18 for persons to one or more lots, parcels[,] or areas [*or tracts*] of land, excluding a private way that
19 is created to provide ingress or egress to such land in conjunction with the use of such land for
20 forestry, mining or agricultural purposes.

21 “(15) ‘Sale’ or ‘sell’ includes every disposition or transfer of land or an interest or estate therein.

22 “(16) ‘Subdivide land’ means to divide land to create four or more lots within a calendar year.

23 “(17) ‘Subdivision’ means either an act of subdividing land or an area [*or a tract*] of land subdivi-
24 vided.

25 “(18) ‘Subdivision plat’ includes a final map and other writing containing all the descriptions,
26 locations, specifications, dedications, provisions and information concerning a subdivision.

27 “(19) **‘Tract’ means a unit of land, created by subdivision, partition or submission of land
28 to the condominium form of ownership, that:**

29 **“(a) May be used for purposes such as open spaces, wetlands, private roads, utility
30 infrastructure, recreational facilities or other shared public or private uses; and**

31 **“(b) May not be used for purposes such as residential dwellings or commercial buildings.**

32 “[~~19~~] (20) ‘Utility easement’ means an easement noted on a subdivision plat or partition plat
33 for the purpose of installing or maintaining public or private utility infrastructure for the provision
34 of water, power, heat or telecommunications to the public.

35 **“SECTION 2.** ORS 92.012 is amended to read:

36 **“92.012. (1) [No] Land may not be subdivided or partitioned except in accordance with ORS
37 92.010 to 92.192.**

38 **“(2) In addition to creating lots by subdivision and parcels by partition, a city or county
39 may create one or more tracts when subdividing or partitioning land.”.**

40 In line 40, delete “2” and insert “3”.

41 On page 3, line 33, delete “3” and insert “4”.

42 In line 45, delete “lots or parcels of”.

43 On page 4, line 10, restore “subdivision or partition plat contains any dedication or donation
44 of land”.

45 In line 11, before “fee” insert “for the purpose of a public right of way and the”.

1 In line 28, delete “4” and insert “5”.

2 After line 35, insert:

3 “**SECTION 6.** ORS 92.014 is amended to read:

4 “92.014. (1) A person may not create a street or road for the purpose of subdividing or parti-
5 tioning an area [*or tract*] of land without the approval of the city or county having jurisdiction over
6 the area [*or tract*] of land to be subdivided or partitioned.

7 “(2) Notwithstanding ORS 92.175, an instrument dedicating land to public use may not be ac-
8 cepted for recording in this state unless the instrument bears the approval of the city or county
9 authorized by law to accept the dedication.”.

10 Delete lines 36 through 45 and delete page 5 and insert:

11 “**SECTION 7.** ORS 92.070 is amended to read:

12 “92.070. (1) Except as otherwise provided in this section, a subdivision or partition plat desig-
13 nating the location of land in a county in the State of Oregon, offered for record, must include on
14 the face of the plat a surveyor’s certificate, together with the seal and signature of the surveyor
15 having surveyed the land represented on the plat, to the effect that the surveyor has correctly sur-
16 veyed and marked with proper monuments the lands as represented and has placed a proper monu-
17 ment as provided in ORS 92.060 indicating the initial point of the plat and its location in accordance
18 with ORS 92.060 (1) and accurately describing by metes or bounds, or other description as approved
19 by the county surveyor, the [*tract of*] land upon which the lots and blocks or parcels are laid out.

20 “(2) If the person subdividing any land has complied with ORS 92.065 (1), the surveyor may
21 prepare the plat of the subdivision for recording with only the exterior monuments referenced on
22 the subdivision plat as submitted for recording. The subdivision plat shall include a certification of
23 the surveyor that the remaining corners for the subdivision will be monumented on or before a
24 specified date in accordance with ORS 92.060, noting those monuments to be set on or before said
25 specified date on the subdivision plat as approved by the city or county.

26 “(3) After the remaining corners for a subdivision have been monumented as provided in the
27 certificate submitted under subsection (2) of this section, the surveyor performing the work shall:

28 “(a) Within five days after completion of the work, notify the person subdividing the land in-
29 volved and the county surveyor by whom the subdivision was approved; and

30 “(b) Upon approval of the work under ORS 92.100 by the county surveyor, submit an affidavit
31 for recording stating that the subdivision plat has been correctly surveyed and marked with proper
32 monuments at the remaining corners of the subdivisions as noted on the original subdivision plat.
33 Any monument that cannot be set shall be separately noted and a reference monument shall be set.
34 The affidavit shall be approved by the county surveyor before recording. The surveyor who prepared
35 the affidavit shall cause the affidavit to be recorded in the office of the county recorder where the
36 subdivision plat is recorded. The county clerk shall promptly provide a recorded copy of the affidavit
37 to the county surveyor. The county surveyor shall note the monuments set and the recorder’s in-
38 formation on the county surveyor’s copy of the subdivision plat and any exact copies filed in ac-
39 cordance with ORS 92.120 (3). The original plat may not be corrected or changed after it is recorded
40 with the county clerk.

41 “(4) The county surveyor approving the work pursuant to subsection (3) of this section shall
42 reference the approval upon the subdivision plat and tracings previously recorded. A city surveyor
43 approving the work under ORS 92.100 (1) shall reference that surveyor’s approval on the affidavit
44 required under this section prior to approval by the county surveyor.

45 “(5) Notwithstanding ORS 209.250, the surveyor who prepared the subdivision or partition plat

1 may reestablish plat monuments within two years of plat recordation without filing a map of the
2 survey as required under ORS 209.250. The surveyor reestablishing any plat monuments shall pre-
3 pare an affidavit stating that the reestablished corners of the subdivision or partition plat have been
4 correctly surveyed and marked with proper monuments as required under ORS 92.060. The affidavit
5 shall be approved by the county surveyor prior to recordation of the affidavit with the county clerk.
6 The surveyor who prepared the affidavit shall file the affidavit with the county clerk for the county
7 where the subdivision or partition plat is recorded. The county clerk shall promptly provide a cer-
8 tified copy of the recorded affidavit to the surveyor. The county surveyor shall indicate the rees-
9 tablished monuments on the county surveyor's copy of the plat of the subdivision or partition and
10 any copies of the plat filed under ORS 92.120 (3). The original plat may not be corrected or changed
11 after it is recorded with the county clerk. The county shall charge a fee for recording the affidavit
12 in the county clerk's office and the county surveyor's office. The fee shall be established by the
13 governing body of the county and shall be paid to the county surveyor.”.

14 On page 6, line 1, delete “6” and insert “8”.

15 After line 13, insert:

16 “**SECTION 9.** ORS 92.192 is amended to read:

17 “92.192. (1) Except as provided in this section, a unit of land that is reduced in size by a prop-
18 erty line adjustment approved by a city or county must comply with applicable zoning ordinances
19 after the adjustment.

20 “(2) Subject to subsection (3) of this section, for properties located entirely outside the corporate
21 limits of a city, a county may approve a property line adjustment in which:

22 “(a) One or both of the abutting properties are smaller than the minimum lot or parcel size for
23 the applicable zone before the property line adjustment and, after the adjustment, one is as large
24 as or larger than the minimum lot or parcel size for the applicable zone; or

25 “(b) Both abutting properties are smaller than the minimum lot or parcel size for the applicable
26 zone before and after the property line adjustment.

27 “(3) On land zoned for exclusive farm use, forest use or mixed farm and forest use, a property
28 line adjustment under subsection (2) of this section may not be used to:

29 “(a) Decrease the size of a lot or parcel that, before the relocation or elimination of the common
30 property line, is smaller than the minimum lot or parcel size for the applicable zone and contains
31 an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant [*tract*]
32 **lot or parcel** would be increased to a size as large as or larger than the minimum [*tract*] **lot or**
33 **parcel** size required to qualify the vacant [*tract*] **lot or parcel** for a dwelling;

34 “(b) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for
35 construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting
36 vacant [*tract*] **lot or parcel** would be increased to a size as large as or larger than the minimum
37 [*tract*] **lot or parcel** size required to qualify the vacant [*tract*] **lot or parcel** for a dwelling; or

38 “(c) Allow an area of land used to qualify a [*tract*] **lot or parcel** for a dwelling based on an
39 acreage standard to be used to qualify another [*tract*] **lot or parcel** for a dwelling if the land use
40 approval would be based on an acreage standard.

41 “**SECTION 10.** ORS 215.010 is amended to read:

42 “215.010. As used in this chapter:

43 “(1) The terms defined in ORS 92.010 shall have the meanings given therein, except that
44 [*parcel*]:

45 “(a)(A) ‘**Parcel**’ includes a unit of land created:

1 “[(A)] (i) By partitioning land as defined in ORS 92.010;

2 “[(B)] (ii) In compliance with all applicable planning, zoning and partitioning ordinances and
3 regulations; or

4 “[(C)] (iii) By deed or land sales contract, if there were no applicable planning, zoning or par-
5 titioning ordinances or regulations.

6 “[(b)] (B) ‘Parcel’ does not include a unit of land created solely to establish a separate tax ac-
7 count.

8 “[(2)] (b) ‘Tract’ means one or more contiguous lots or parcels under the same ownership.

9 “[(3)] (2) The terms defined in ORS chapter 197 shall have the meanings given therein.

10 “[(4)] (3) ‘Farm use’ has the meaning given that term in ORS 215.203.

11 “[(5)] (4) ‘The Willamette Valley’ is Clackamas, Linn, Marion, Multnomah, Polk, Washington and
12 Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast
13 Range.

14 “**SECTION 11.** ORS 223.317 is amended to read:

15 “223.317. (1) Notwithstanding any other law, a local government may apportion a final assess-
16 ment levied by it against a single [*tract or parcel of real property*] **lot, parcel or other lawfully**
17 **established unit of land, as those terms are defined in ORS 92.010**, among all the parcels formed
18 from a subsequent partition or other division of that [*tract or parcel*] **lot, parcel or other lawfully**
19 **established unit of land**, if the subsequent partition or division is in accordance with ORS 92.010
20 to 92.192 and is consistent with all applicable comprehensive plans as acknowledged by the Land
21 Conservation and Development Commission under ORS 197.251. The proportionate distribution of a
22 final assessment authorized under this subsection may be made whenever the final assessment re-
23 mains wholly or partially unpaid, and full payment or an installment payment is not due.

24 “(2) A local government shall apportion a final assessment under this section when requested
25 to do so by any owner, mortgagee or lienholder of a parcel [*of real property*] that was formed from
26 the partition or other division of the larger [*tract of real property*] **area of land** against which the
27 final assessment was originally levied. When the deed, mortgage or other instrument evidencing the
28 applicant’s ownership or other interest in the parcel has not been recorded by the county clerk of
29 the county in which the parcel is situated, the local government shall not apportion the final as-
30 sessment unless the applicant files a true copy of that deed, mortgage or instrument with the local
31 government.

32 “(3) Apportionment of a final assessment under this section shall be done in accordance with
33 an order or resolution of the governing body of the local government. The order or resolution shall
34 describe each parcel [*of real property*] affected by the apportionment, the amount of the final as-
35 sessment levied against each parcel, the owner of each parcel and such additional information as is
36 required to keep a permanent and complete record of the final assessments and the payments
37 thereon. A copy of the order or resolution shall be filed with the recorder required to maintain the
38 lien docket for the local government, who shall make any necessary changes or entries in the lien
39 docket for the local government.

40 “**SECTION 12.** ORS 545.101 is amended to read:

41 “545.101. (1) When a subdivision is platted after September 13, 1975, under ORS 92.010 to 92.192,
42 if the subdivision has three or more [*tracts*] **lots** on each acre of land within the subdivision, the
43 subdivision shall be excluded and taken from the district pursuant to ORS 545.097 to 545.126 at the
44 time that the plat is approved by the appropriate governing body.

45 “(2) The exclusion provided in subsection (1) of this section shall not apply to a district which:

1 “(a) Also supplies domestic water approved by the Oregon Health Authority to the subdivision;
2 or
3 “(b) Agrees to supply water to the subdivision. A district may require as a condition of any
4 agreement that:
5 “(A) The subdivider install underground pipe from the district’s designated point of delivery to
6 each lot or parcel in the subdivision as shown on the plat approved by the appropriate governing
7 body;
8 “(B) The subdivider install a meter or other adequate measuring device at the delivery point to
9 the subdivision and for each lot or parcel;
10 “(C) The subdivider provide adequate easements for the delivery system and make provision for
11 the maintenance and repair of the delivery system; and
12 “(D) The subdivider provide any other measures that the district considers necessary for the
13 proper and efficient delivery of water to the subdivision and for the efficient administration of such
14 delivery.
15 “(3) Nothing in subsection (2)(b) of this section requires a district to agree to deliver water to
16 a subdivision.”
17
