



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Land Conservation and Development

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May 9, 2013

**TO:** The Honorable Representative Clem, Chair  
House Committee on Land Use

**FROM:** Matt Crall,  
Department of Land Conservation and Development

**SUBJECT: DLCD Comments Regarding Senate Bill 465**

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### **Overview**

The Oregon Department of Land Conservation and Development supports Senate Bill 465. The bill creates a new tool that local governments can use to help manage floodplains. It does not place any new requirements on local governments, nor does it place any new restrictions on private property. The only disappointment is that the bill is limited (by the relating clause) to only residential structures damaged by floods. We anticipate that we will ask the legislature in a future session to broaden this tool to include all structures and to cover damage from any cause.

### **Background**

Local governments are responsible for regulating floodplains. Almost all local governments in Oregon participate in the National Flood Insurance Program (NFIP), which requires them to enact certain regulations. One such regulation requires that, if a building within the Special Flood Hazard Area defined by the NFIP (or within a flood inundation area mapped by the local government) is substantially damaged, then the building must be repaired in a manner that brings it into compliance with the current local floodplain ordinance, which may require that the building be elevated above the base flood elevation.

### **Benefit of the Bill**

This bill allows a “notice of substantial damage” to be recorded by the county clerk to ensure that prospective buyers are aware of the requirement to bring the building into compliance with current regulations. In the past, problems have arisen when a substantially damaged building is sold to a buyer who is unaware of this requirement. This is more likely to happen if the building has been cosmetically repaired, or if it is sold through a foreclosure process. Bringing a building into compliance can be expensive, especially if the building was constructed before floodplain regulations were in effect and it needs to be elevated above the base flood elevation.

### **Future Legislation for a Broader Tool**

Several versions of amendments were proposed after this bill was introduced, and the A-Engrossed represents a consensus around a significantly improved version. Nevertheless, there are two changes this department suggested but that could not be made due to the relating clause:

“Relating to disclosure of **flood** damage to **residential** improvements; creating new provisions;” (emphasis added)

The NFIP defines substantial damage as:

“... **damage of any origin** sustained by **a structure** whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.” (emphasis added)

This definition is incorporated in local floodplain regulations. Ideally this new tool would be consistent with the definition used by the NFIP and local regulations, thus being available for all structures, and covering damage from any cause. We anticipate proposing legislation in a future session to do this.

**Conclusion**

Thank you for this opportunity to testify in support of SB 465. If committee members have any questions, I can be reached at 503-934-0046, or through email at [matthew.crall@state.or.us](mailto:matthew.crall@state.or.us).