

Enrolled
House Bill 2839

Sponsored by COMMITTEE ON LAND USE (at the request of 1000 Friends of Oregon)

CHAPTER

AN ACT

Relating to just compensation for changes to industrial zoning; amending ORS 195.305.

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

SECTION 1. ORS 195.305 is amended to read:

195.305. (1) If a public entity enacts one or more land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property, then the owner of the property shall be entitled to just compensation from the public entity that enacted the land use regulation or regulations as provided in ORS 195.310 to 195.314.

(2) Just compensation under ORS 195.310 to 195.314 shall be based on the reduction in the fair market value of the property resulting from the land use regulation.

(3) Subsection (1) of this section shall not apply to land use regulations that were enacted prior to the claimant's acquisition date or to land use regulations:

(a) *[Restricting or prohibiting]* **That restrict or prohibit** activities commonly and historically recognized as public nuisances under common law;

(b) *[Restricting or prohibiting]* **That restrict or prohibit** activities for the protection of public health and safety;

(c) To the extent the land use *[regulation is]* **regulations are** required to comply with federal law; *[or]*

(d) *[Restricting or prohibiting]* **That restrict or prohibit** the use of a property for the purpose of selling pornography or performing nude dancing[.];

(e) **That plan and rezone land to an industrial zoning classification for inclusion within an urban growth boundary; or**

(f) **That plan and rezone land within an urban growth boundary to an industrial zoning classification.**

(4)(a) Subsection (3)(a) of this section shall be construed narrowly in favor of granting just compensation under this section. Nothing in subsection (3) of this section is intended to affect or alter rights provided by the Oregon or United States Constitution.

(b) Subsection (3)(b) of this section does not apply to any farming or forest practice regulation that is enacted after January 1, 2007, unless the primary purpose of the regulation is the protection of human health and safety.

(c) Subsection (3)(c) of this section does not apply to any farming or forest practice regulation that is enacted after January 1, 2007, unless the public entity enacting the regulation has no discretion under federal law to decline to enact the regulation.

(5) A public entity may adopt or apply procedures for the processing of claims under ORS 195.310 to 195.336.

(6) The public entity that enacted the land use regulation that gives rise to a claim under subsection (1) of this section shall provide just compensation as required under ORS 195.310 to 195.336.

(7) A decision by a public entity that an owner qualifies for just compensation under ORS 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, and a decision by a public entity on the nature and extent of that compensation are not land use decisions.

(8) The remedies created by ORS 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, are in addition to any other remedy under the Oregon or United States Constitution, and are not intended to modify or replace any constitutional remedy.

(9) If any portion or portions of this section are declared invalid by a court of competent jurisdiction, the remaining portions of this section shall remain in full force and effect.

Passed by House April 23, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 23, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State