

# House Bill 2839

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

## 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**.

Exempts from entitlement to just compensation land rezoned to zoning classification that allows industrial uses.

## A BILL FOR AN ACT

1  
2 Relating to just compensation for changes to industrial zoning; amending ORS 195.305.

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

4 **SECTION 1.** ORS 195.305 is amended to read:

5 195.305. (1) If a public entity enacts one or more land use regulations that restrict the residen-  
6 tial use of private real property or a farming or forest practice and that reduce the fair market  
7 value of the property, then the owner of the property shall be entitled to just compensation from the  
8 public entity that enacted the land use regulation or regulations as provided in ORS 195.310 to  
9 195.314.

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

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

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

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

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

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

22 **(e) That plan and rezone land to a zoning classification that allows industrial uses.**

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

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

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

**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 (5) A public entity may adopt or apply procedures for the processing of claims under ORS  
2 195.310 to 195.336.

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

5 (7) A decision by a public entity that an owner qualifies for just compensation under ORS  
6 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17,  
7 chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, and a decision  
8 by a public entity on the nature and extent of that compensation are not land use decisions.

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

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

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