

D R A F T

SUMMARY

Makes law or rule for restricting previously allowed farming practice land use regulation for purposes of certain land use laws.

Removes just compensation exemption for land use regulation that reduces fair market value of property and restricts farming practice or forest practice covered by right-to-farm laws.

A BILL FOR AN ACT

Relating to land use; amending ORS 195.300 and 195.308.

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

SECTION 1. ORS 195.300 is amended to read:

195.300. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010:

(1) “Acquisition date” means the date described in ORS 195.328.

(2) “Claim” means a written demand for compensation filed under:

(a) ORS 195.305, as in effect immediately before December 6, 2007; or

(b) ORS 195.305 and 195.310 to 195.314, as in effect on and after December 6, 2007.

(3) “Enacted” means enacted, adopted or amended.

(4) “Fair market value” means the value of property as determined under ORS 195.332.

(5) “Farming practice” has the meaning given that term in ORS 30.930.

(6) “Federal law” means:

(a) A statute, regulation, order, decree or policy enacted by a federal en-

1 tity or by a state entity acting under authority delegated by the federal
2 government;

3 (b) A requirement contained in a plan or rule enacted by a compact en-
4 tity; or

5 (c) A requirement contained in a permit issued by a federal or state
6 agency pursuant to a federal statute or regulation.

7 (7) "File" means to submit a document to a public entity.

8 (8) "Forest practice" has the meaning given that term in ORS 527.620.

9 (9) "Ground water restricted area" means an area designated as a critical
10 ground water area or as a ground water limited area by the Water Resources
11 Department or Water Resources Commission before December 6, 2007.

12 (10) "High-value farmland" means:

13 (a) High-value farmland as described in ORS 215.710 that is land in an
14 exclusive farm use zone or a mixed farm and forest zone, except that the
15 dates specified in ORS 215.710 (2), (4) and (6) are December 6, 2007.

16 (b) Land west of U.S. Highway 101 that is composed predominantly of the
17 following soils in Class III or IV or composed predominantly of a combina-
18 tion of the soils described in ORS 215.710 (1) and the following soils:

19 (A) Subclassification IIIw, specifically Ettersburg Silt Loam and
20 Croftland Silty Clay Loam;

21 (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and
22 Winchuck Silt Loam; and

23 (C) Subclassification IVw, specifically Huffling Silty Clay Loam.

24 (c) Land that is in an exclusive farm use zone or a mixed farm and forest
25 zone and that on June 28, 2007, is:

26 (A) Within the place of use for a permit, certificate or decree for the use
27 of water for irrigation issued by the Water Resources Department;

28 (B) Within the boundaries of a district, as defined in ORS 540.505; or

29 (C) Within the boundaries of a diking district formed under ORS chapter
30 551.

31 (d) Land that contains not less than five acres planted in wine grapes.

1 (e) Land that is in an exclusive farm use zone and that is at an elevation
2 between 200 and 1,000 feet above mean sea level, with an aspect between 67.5
3 and 292.5 degrees and a slope between zero and 15 percent, and that is lo-
4 cated within:

5 (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;

6 (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89;

7 or

8 (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.

9 (f) Land that is in an exclusive farm use zone and that is no more than
10 3,000 feet above mean sea level, with an aspect between 67.5 and 292.5 de-
11 grees and a slope between zero and 15 percent, and that is located within:

12 (A) The portion of the Columbia Gorge viticultural area as described in
13 27 C.F.R. 9.178 that is within the State of Oregon;

14 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

15 (C) The portion of the Columbia Valley viticultural area as described in
16 27 C.F.R. 9.74 that is within the State of Oregon;

17 (D) The portion of the Walla Walla Valley viticultural area as described
18 in 27 C.F.R. 9.91 that is within the State of Oregon; or

19 (E) The portion of the Snake River Valley viticultural area as described
20 in 27 C.F.R. 9.208 that is within the State of Oregon.

21 (11) "High-value forestland" means land:

22 (a) That is in a forest zone or a mixed farm and forest zone, that is lo-
23 cated in western Oregon and composed predominantly of soils capable of
24 producing more than 120 cubic feet per acre per year of wood fiber and that
25 is capable of producing more than 5,000 cubic feet per year of commercial
26 tree species; or

27 (b) That is in a forest zone or a mixed farm and forest zone, that is lo-
28 cated in eastern Oregon and composed predominantly of soils capable of
29 producing more than 85 cubic feet per acre per year of wood fiber and that
30 is capable of producing more than 4,000 cubic feet per year of commercial
31 tree species.

1 (12) “Home site approval” means approval of the subdivision or partition
2 of property or approval of the establishment of a dwelling on property.

3 (13) “Just compensation” means:

4 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, sections
5 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter
6 8, Oregon Laws 2010, for land use regulations enacted on or before January
7 1, 2007; and

8 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted
9 after January 1, 2007.

10 (14) “Land use regulation” means:

11 (a) A statute that establishes a minimum lot or parcel size;

12 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or
13 227.500 or in ORS chapter 215 that restricts the residential use of private
14 real property;

15 (c) A provision of a city comprehensive plan, zoning ordinance or land
16 division ordinance that restricts the residential use of private real property
17 zoned for residential use;

18 (d) A provision of a county comprehensive plan, zoning ordinance or land
19 division ordinance that restricts the residential use of private real property;

20 (e) A provision, enacted or adopted on or after January 1, 2010, of:

21 (A) The Oregon Forest Practices Act;

22 (B) An administrative rule of the State Board of Forestry; *[or]*

23 (C) Any other law enacted, or rule adopted, solely for the purpose of
24 regulating a forest practice; **or**

25 **(D) Any law enacted, or rule adopted, solely to restrict a farming**
26 **practice that was allowed immediately prior to enactment of the law**
27 **or adoption of the rule;**

28 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative
29 rule of the State Department of Agriculture that implements ORS 561.191 or
30 568.900 to 568.933;

31 (g) An administrative rule or goal of the Land Conservation and Devel-

1 opment Commission; or

2 (h) A provision of a Metro functional plan that restricts the residential
3 use of private real property.

4 (15) “Lawfully established unit of land” has the meaning given that term
5 in ORS 92.010.

6 (16) “Lot” has the meaning given that term in ORS 92.010.

7 (17) “Measure 37 permit” means a final decision by Metro, a city or a
8 county to authorize the development, subdivision or partition or other use
9 of property pursuant to a waiver.

10 (18) “Owner” means:

11 (a) The owner of fee title to the property as shown in the deed records
12 of the county where the property is located;

13 (b) The purchaser under a land sale contract, if there is a recorded land
14 sale contract in force for the property; or

15 (c) If the property is owned by the trustee of a revocable trust, the settlor
16 of a revocable trust, except that when the trust becomes irrevocable only the
17 trustee is the owner.

18 (19) “Parcel” has the meaning given that term in ORS 92.010.

19 (20) “Property” means the private real property described in a claim and
20 contiguous private real property that is owned by the same owner, whether
21 or not the contiguous property is described in another claim, and that is not
22 property owned by the federal government, an Indian tribe or a public body,
23 as defined in ORS 192.410.

24 (21) “Protection of public health and safety” means a law, rule, ordinance,
25 order, policy, permit or other governmental authorization that restricts a use
26 of property in order to reduce the risk or consequence of fire, earthquake,
27 landslide, flood, storm, pollution, disease, crime or other natural or human
28 disaster or threat to persons or property including, but not limited to,
29 building and fire codes, health and sanitation regulations, solid or hazardous
30 waste regulations and pollution control regulations.

31 (22) “Public entity” means the state, Metro, a county or a city.

1 (23) “Urban growth boundary” has the meaning given that term in ORS
2 195.060.

3 (24) “Waive” or “waiver” means an action or decision of a public entity
4 to modify, remove or not apply one or more land use regulations under ORS
5 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007,
6 sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7,
7 chapter 8, Oregon Laws 2010, or ORS 195.305, as in effect immediately before
8 December 6, 2007, to allow the owner to use property for a use permitted
9 when the owner acquired the property.

10 (25) “Zoned for residential use” means zoning that has as its primary
11 purpose single-family residential use.

12 **SECTION 2.** ORS 195.308 is amended to read:

13 195.308. Notwithstanding the requirement to pay just compensation for
14 certain land use regulations under ORS 195.305 (1), compensation is not due
15 for the enforcement or enactment of a land use regulation established in ORS
16 [*30.930 to 30.947,*] 527.310 to 527.370, 561.995, 569.360 to 569.495, 570.010 to
17 570.050, 570.105 to 570.190, 570.305, 570.310, 570.320 to 570.360, 570.405, 570.412,
18 570.420, 570.425, 570.450, 570.650, 570.700 to 570.710, 570.755, 570.770, 570.775,
19 570.780, 570.790, 570.800, 570.995, 596.095, 596.100, 596.105, 596.393, 596.990 or
20 596.995 or in administrative rules or statewide plans implementing these
21 statutes.

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