

From the Desk of  
Senator Ted Ferrioli

# Senate Bill 770

Sponsored by Senator FERRIOLI

## 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.

Authorizes local government to adopt exception to statewide land use goal without demonstrating that certain statutory standards for exception have been met for employment use that will create 50 or fewer new, full-time jobs. Applies to local government that has experienced sustained high unemployment or sustained population decline or has high poverty level. Defines terms.

### A BILL FOR AN ACT

1 Relating to exception to land use goals; amending ORS 197.732.

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

3 **SECTION 1.** ORS 197.732 is amended to read:

4 197.732. (1) As used in this section:

5 (a) "Compatible" is not intended as an absolute term meaning no interference or adverse impacts  
6 of any type with adjacent uses.

7 (b) "Exception" means a comprehensive plan provision, including an amendment to an acknowl-  
8 edged comprehensive plan, that:

9 (A) Is applicable to specific properties or situations and does not establish a planning or zoning  
10 policy of general applicability;

11 (B) Does not comply with some or all goal requirements applicable to the subject properties or  
12 situations; and

13 (C) Complies with standards under subsection (2) of this section.

14 (c) "High poverty" means that at least:

15 (A) **25 percent of the residents of a local government have taxable income, as defined in**  
16 **ORS 316.022, that is below the federal poverty level, as defined in 42 U.S.C. 9902, as amended**  
17 **and in effect on the effective date of this 2015 Act.**

18 (B) **50 percent of the residents of a local government have taxable income, as defined in**  
19 **ORS 316.022, that is below 75 percent of the median taxable income of residents of this state.**

20 (d) "Sustained high unemployment" means the monthly average unemployment rate, as  
21 determined by the Employment Department, in a local government has been higher than  
22 seven percent for at least 24 consecutive months.

23 (e) "Sustained population decline" means the population of a local government has de-  
24 clined:

25 (A) As determined in the most recent federal decennial census taken and the census  
26 taken immediate preceding the most recent census; or

27 (B) In each of the five preceding calendar years, as determined by the United States  
28 Census Bureau or the Portland State University Population Research Center.

29 (2) **Except as provided in subsection (3) of this section, a local government may adopt an**  
30

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 exception to a goal if:

2 (a) The land subject to the exception is physically developed to the extent that it is no longer  
3 available for uses allowed by the applicable goal;

4 (b) The land subject to the exception is irrevocably committed as described by Land Conserva-  
5 tion and Development Commission rule to uses not allowed by the applicable goal because existing  
6 adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;  
7 or

8 (c) The following standards are met:

9 (A) Reasons justify why the state policy embodied in the applicable goals should not apply;

10 (B) Areas that do not require a new exception cannot reasonably accommodate the use;

11 (C) The long term environmental, economic, social and energy consequences resulting from the  
12 use at the proposed site with measures designed to reduce adverse impacts are not significantly  
13 more adverse than would typically result from the same proposal being located in areas requiring  
14 a goal exception other than the proposed site; and

15 (D) The proposed uses are compatible with other adjacent uses or will be so rendered through  
16 measures designed to reduce adverse impacts.

17 (3) For \_\_\_\_\_ years immediately following a finding by a local government that the local  
18 government has experienced sustained high unemployment or sustained population decline  
19 or has a high poverty level, the local government may adopt an exception to a goal for an  
20 employment use that will create 50 or fewer new, full-time jobs without finding that the  
21 standards of subsection (2) of this section have been met. Notwithstanding subsection (5) of  
22 this section, the local government approving or denying the proposed exception under this  
23 subsection shall set forth findings of fact required for an exception under this subsection,  
24 but need not set forth a statement of reasons that demonstrate that the standards of sub-  
25 section (2) of this section have or have not been met.

26 [(3)] (4) The commission shall adopt rules establishing:

27 (a) That an exception **under subsection (2) of this section** may be adopted to allow a use au-  
28 thorized by a statewide planning goal that cannot comply with the approval standards for that type  
29 of use;

30 (b) Under what circumstances particular reasons may or may not be used to justify an exception  
31 under subsection (2)(c)(A) of this section; and

32 (c) Which uses allowed by the applicable goal must be found impracticable under subsection (2)  
33 of this section.

34 [(4)] (5) A local government approving or denying a proposed exception shall set forth findings  
35 of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this  
36 section have or have not been met.

37 [(5)] (6) Each notice of a public hearing on a proposed exception shall specifically note that a  
38 goal exception is proposed and shall summarize the issues in an understandable manner.

39 [(6)] (7) Upon review of a decision approving or denying an exception:

40 (a) The Land Use Board of Appeals or the commission [shall be] is bound by any finding of fact  
41 for which there is substantial evidence in the record of the local government proceedings resulting  
42 in approval or denial of the exception; **and**

43 (b) **When subsection (2) of this section applies to the exception**, the board upon petition,  
44 or the commission, shall:

45 (A) Determine whether the local government's findings and reasons demonstrate that the stan-

1 dards of subsection (2) of this section have or have not been met; and

2 [(c)] (B) *[The board or commission shall]* Adopt a clear statement of reasons that sets forth the  
3 basis for the determination that the standards of subsection (2) of this section have or have not been  
4 met.

5 [(7)] (8) The commission shall by rule establish the standards required to justify an exception  
6 to the definition of "needed housing" authorized by ORS 197.303.

7 (9) **If 42 U.S.C. 9902 is amended, altered or superseded on or after the effective date of**  
8 **this 2015 Act, the commission may adopt by rule a modification of the definition of "high**  
9 **poverty" to reflect changes in the determination of the federal poverty level under 42 U.S.C.**  
10 **9902 as amended, altered or superseded.**

11 [(8)] (10) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replace-  
12 ment Part) on or before August 9, 1983, continues to be valid and is not subject to this section.

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