

**A-Engrossed**  
**House Bill 2830**

Ordered by the House April 13  
Including House Amendments dated April 13

Sponsored by Representative HELM; Representatives GOMBERG, MCLAIN

**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.

Modifies time period for local government to take action on application for permit, limited land use decision or zone change after remand based on final order of Land Use Board of Appeals.

**A BILL FOR AN ACT**

1  
2 Relating to remand of local land use decision; amending ORS 215.435, 215.437, 227.181 and 227.182.

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

4 **SECTION 1.** ORS 215.435 is amended to read:

5 215.435. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-  
6 manding a decision to a county, the governing body of the county or its designee shall take final  
7 action on an application for a permit, limited land use decision or zone change within [90] **120** days  
8 of the effective date of the final order issued by the board. For purposes of this subsection, the ef-  
9 fective date of the final order is the last day for filing a petition for judicial review of a final order  
10 of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under  
11 ORS 197.830, the [90-day] **120-day** period established under this subsection shall not begin until final  
12 resolution of the judicial review.

13 *[(2)(a) In addition to the requirements of subsection (1) of this section, the 90-day period established*  
14 *under subsection (1) of this section shall not begin until the applicant requests in writing that the*  
15 *county proceed with the application on remand.]*

16 *[(b) The 90-day period may be extended for a reasonable period of time at the request of the ap-*  
17 *plicant.]*

18 **(2)(a) In addition to the requirements of subsection (1) of this section, the 120-day period**  
19 **established under subsection (1) of this section shall not begin until the applicant requests**  
20 **in writing that the county proceed with the application on remand, but if the county does**  
21 **not receive the request within 180 days of the effective date of the final order or the final**  
22 **resolution of the judicial review, the county shall deem the application terminated.**

23 **(b) The 120-day period established under subsection (1) of this section may be extended**  
24 **for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860**  
25 **prior to the expiration of the initial 120-day period. The county shall deem the application**  
26 **terminated if the matter is not resolved through mediation prior to the expiration of the**  
27 **365-day extension.**

28 (3) The [90-day] **120-day** period established under subsection (1) of this section applies only to

**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 decisions wholly within the authority and control of the governing body of the county.

2 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision  
3 of the county making a change to an acknowledged comprehensive plan or a land use regulation that  
4 is submitted to the Director of the Department of Land Conservation and Development under ORS  
5 197.610.

6 **SECTION 2.** ORS 215.437 is amended to read:

7 215.437. (1) If the governing body of a county or its designee fails to take final action on an  
8 application for a permit, limited land use decision or zone change within [90] **120** days as provided  
9 in ORS 215.435, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105  
10 to 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days  
11 from the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been ad-  
12 vised by the parties that the matter has been settled.

13 (2) A writ of mandamus issued under this section shall order the governing body of the county  
14 or its designee to make a final determination on the application. The court, in its discretion, may  
15 order such remedy as the court determines appropriate.

16 (3) In a mandamus proceeding under this section the court shall award court costs and attorney  
17 fees to an applicant who prevails on a petition under this section.

18 **SECTION 3.** ORS 227.181 is amended to read:

19 227.181. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-  
20 manding a decision to a city, the governing body of the city or its designee shall take final action  
21 on an application for a permit, limited land use decision or zone change within [90] **120** days of the  
22 effective date of the final order issued by the board. For purposes of this subsection, the effective  
23 date of the final order is the last day for filing a petition for judicial review of a final order of the  
24 board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS  
25 197.830, the [90-day] **120-day** period established under this subsection shall not begin until final re-  
26 solution of the judicial review.

27 *[(2)(a) In addition to the requirements of subsection (1) of this section, the 90-day period established*  
28 *under subsection (1) of this section shall not begin until the applicant requests in writing that the city*  
29 *proceed with the application on remand.]*

30 *[(b) The 90-day period may be extended for a reasonable period of time at the request of the ap-*  
31 *plicant.]*

32 **(2)(a) In addition to the requirements of subsection (1) of this section, the 120-day period**  
33 **established under subsection (1) of this section shall not begin until the applicant requests**  
34 **in writing that the city proceed with the application on remand, but if the city does not re-**  
35 **ceive the request within 180 days of the effective date of the final order or the final resol-**  
36 **ution of the judicial review, the city shall deem the application terminated.**

37 **(b) The 120-day period established under subsection (1) of this section may be extended**  
38 **for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860**  
39 **prior to the expiration of the initial 120-day period. The city shall deem the application ter-**  
40 **minated if the matter is not resolved through mediation prior to the expiration of the 365-day**  
41 **extension.**

42 (3) The [90-day] **120-day** period established under subsection (1) of this section applies only to  
43 decisions wholly within the authority and control of the governing body of the city.

44 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision  
45 of the city making a change to an acknowledged comprehensive plan or a land use regulation that

1 is submitted to the Director of the Department of Land Conservation and Development under ORS  
2 197.610.

3 **SECTION 4.** ORS 227.182 is amended to read:

4 227.182. (1) If the governing body of a city or its designee fails to take final action on an ap-  
5 plication for a permit, limited land use decision or zone change within [90] **120** days as provided in  
6 ORS 227.181, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to  
7 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from  
8 the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised  
9 by the parties that the matter has been settled.

10 (2) A writ of mandamus issued under this section shall order the governing body of the city or  
11 its designee to make a final determination on the application. The court, in its discretion, may order  
12 such remedy as the court determines appropriate.

13 (3) In a mandamus proceeding under this section the court shall award court costs and attorney  
14 fees to an applicant who prevails on a petition under this section.

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