

House Bill 2830

Sponsored by Representative HELM

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**.

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

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

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

SECTION 1. ORS 215.435 is amended to read:

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

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

[(b)] **(2)** *[The 90-day]* **The 120-day** period may be extended for a reasonable period of time at the request of the applicant.

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

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

SECTION 2. ORS 215.437 is amended to read:

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

(2) A writ of mandamus issued under this section shall order the governing body of the county

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 or its designee to make a final determination on the application. The court, in its discretion, may
 2 order such remedy as the court determines appropriate.

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

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

6 227.181. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 re-
 7 manding a decision to a city, the governing body of the city or its designee shall take final action
 8 on an application for a permit, limited land use decision or zone change within [90] **120** days of the
 9 effective date of the final order issued by the board. For purposes of this subsection, the effective
 10 date of the final order is the last day for filing a petition for judicial review of a final order of the
 11 board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS
 12 197.830, the [90-day] **120-day** period established under this subsection shall not begin until final re-
 13 solution of the judicial review.

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

17 [(b)] (2) [The 90-day] **The 120-day** period may be extended for a reasonable period of time at the
 18 request of the applicant.

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

21 (4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision
 22 of the city making a change to an acknowledged comprehensive plan or a land use regulation that
 23 is submitted to the Director of the Department of Land Conservation and Development under ORS
 24 197.610.

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

26 227.182. (1) If the governing body of a city or its designee fails to take final action on an ap-
 27 plication for a permit, limited land use decision or zone change within [90] **120** days as provided in
 28 ORS 227.181, the applicant may file a petition for a writ of mandamus as provided in ORS 34.105 to
 29 34.240. The court shall set the matter for trial as soon as practicable but not more than 15 days from
 30 the date a responsive pleading pursuant to ORS 34.170 is filed, unless the court has been advised
 31 by the parties that the matter has been settled.

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

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

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