

House Bill 3212

Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

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**.

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

1
2 Relating to land use; amending ORS 195.300 and 195.308.

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

4 **SECTION 1.** ORS 195.300 is amended to read:

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

8 (1) "Acquisition date" means the date described in ORS 195.328.

9 (2) "Claim" means a written demand for compensation filed under:

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

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

12 (3) "Enacted" means enacted, adopted or amended.

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

14 (5) "Farming practice" has the meaning given that term in ORS 30.930.

15 (6) "Federal law" means:

16 (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity
17 acting under authority delegated by the federal government;

18 (b) A requirement contained in a plan or rule enacted by a compact entity; or

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

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

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

23 (9) "Ground water restricted area" means an area designated as a critical ground water area
24 or as a ground water limited area by the Water Resources Department or Water Resources Com-
25 mission before December 6, 2007.

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

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

30 (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class

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 III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and
 2 the following soils:

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

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

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

6 (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June
 7 28, 2007, is:

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

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

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

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

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

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

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

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

19 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean
 20 sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent,
 21 and that is located within:

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

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

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

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

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

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

32 (a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon
 33 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per
 34 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-
 35 mercial tree species; or

36 (b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon
 37 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year
 38 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial
 39 tree species.

40 (12) "Home site approval" means approval of the subdivision or partition of property or approval
 41 of the establishment of a dwelling on property.

42 (13) "Just compensation" means:

43 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter
 44 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, for land use regulations
 45 enacted on or before January 1, 2007; and

- 1 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted after January 1, 2007.
- 2 (14) "Land use regulation" means:
- 3 (a) A statute that establishes a minimum lot or parcel size;
- 4 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter
5 215 that restricts the residential use of private real property;
- 6 (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that
7 restricts the residential use of private real property zoned for residential use;
- 8 (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that
9 restricts the residential use of private real property;
- 10 (e) A provision, enacted or adopted on or after January 1, 2010, of:
- 11 (A) The Oregon Forest Practices Act;
- 12 (B) An administrative rule of the State Board of Forestry; [or]
- 13 (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest prac-
14 tice; **or**
- 15 **(D) Any law enacted, or rule adopted, solely to restrict a farming practice that was al-**
16 **lowed immediately prior to enactment of the law or adoption of the rule;**
- 17 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State
18 Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;
- 19 (g) An administrative rule or goal of the Land Conservation and Development Commission; or
- 20 (h) A provision of a Metro functional plan that restricts the residential use of private real
21 property.
- 22 (15) "Lawfully established unit of land" has the meaning given that term in ORS 92.010.
- 23 (16) "Lot" has the meaning given that term in ORS 92.010.
- 24 (17) "Measure 37 permit" means a final decision by Metro, a city or a county to authorize the
25 development, subdivision or partition or other use of property pursuant to a waiver.
- 26 (18) "Owner" means:
- 27 (a) The owner of fee title to the property as shown in the deed records of the county where the
28 property is located;
- 29 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force
30 for the property; or
- 31 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust,
32 except that when the trust becomes irrevocable only the trustee is the owner.
- 33 (19) "Parcel" has the meaning given that term in ORS 92.010.
- 34 (20) "Property" means the private real property described in a claim and contiguous private real
35 property that is owned by the same owner, whether or not the contiguous property is described in
36 another claim, and that is not property owned by the federal government, an Indian tribe or a public
37 body, as defined in ORS 192.410.
- 38 (21) "Protection of public health and safety" means a law, rule, ordinance, order, policy, permit
39 or other governmental authorization that restricts a use of property in order to reduce the risk or
40 consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural
41 or human disaster or threat to persons or property including, but not limited to, building and fire
42 codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control
43 regulations.
- 44 (22) "Public entity" means the state, Metro, a county or a city.
- 45 (23) "Urban growth boundary" has the meaning given that term in ORS 195.060.

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

6 (25) "Zoned for residential use" means zoning that has as its primary purpose single-family res-
7 idential use.

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

9 195.308. Notwithstanding the requirement to pay just compensation for certain land use regu-
10 lations under ORS 195.305 (1), compensation is not due for the enforcement or enactment of a land
11 use regulation established in ORS [30.930 to 30.947,] 527.310 to 527.370, 561.995, 569.360 to 569.495,
12 570.010 to 570.050, 570.105 to 570.190, 570.305, 570.310, 570.320 to 570.360, 570.405, 570.412, 570.420,
13 570.425, 570.450, 570.650, 570.700 to 570.710, 570.755, 570.770, 570.775, 570.780, 570.790, 570.800,
14 570.995, 596.095, 596.100, 596.105, 596.393, 596.990 or 596.995 or in administrative rules or statewide
15 plans implementing these statutes.

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