

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2997

By COMMITTEE ON HOUSING

May 22

1 On page 1 of the printed A-engrossed bill, line 2, before the period insert “; amending ORS  
2 197.309”.

3 Delete lines 4 through 27 and delete pages 2 and 3 and insert:

4 “**SECTION 1.** ORS 197.309 is amended to read:

5 “197.309. (1) As used in this section:

6 “(a) ‘Affordable housing’ means housing that is affordable to households with incomes equal to  
7 or higher than 80 percent of the median family income for the county in which the housing is built.

8 “(b) ‘Multifamily structure’ means a structure that contains three or more housing units sharing  
9 at least one wall, floor or ceiling surface in common with another unit within the same structure.

10 “(2) Except as provided in subsection (3) of this section, a metropolitan service district may not  
11 adopt a land use regulation or functional plan provision, or impose as a condition for approving a  
12 permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or  
13 rental price for a housing unit or residential building lot or parcel, or that requires a housing unit  
14 or residential building lot or parcel to be designated for sale or rent to a particular class or group  
15 of purchasers or renters.

16 “(3) The provisions of subsection (2) of this section do not limit the authority of a metropolitan  
17 service district to:

18 “(a) Adopt or enforce a use regulation, provision or requirement creating or implementing an  
19 incentive, contract commitment, density bonus or other voluntary regulation, provision or require-  
20 ment designed to increase the supply of moderate or lower cost housing units; or

21 “(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

22 “(4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional  
23 plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a  
24 requirement, that has the effect of establishing the sales or rental price for a new multifamily struc-  
25 ture, or that requires a new multifamily structure to be designated for sale or rent as affordable  
26 housing.

27 “(5) A regulation, provision or requirement adopted or imposed under subsection (4) of this  
28 section:

29 “(a) May not require more than 20 percent of housing units within a multifamily structure to  
30 be sold or rented as affordable housing[;].

31 “(b) May apply only to multifamily structures containing at least 20 housing units[;].

32 “(c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the  
33 city or county, in exchange for providing the requisite number of housing units within the multi-  
34 family structure to be sold or rented at below-market rates; *and*].

35 “(d) Must require the city or county to offer a developer of multifamily structures, other than

1 a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least  
2 one of the following incentives:

3 “(A) Whole or partial fee waivers or reductions.

4 “(B) Whole or partial waivers of system development charges or impact fees set by the city or  
5 county.

6 “(C) Finance-based incentives.

7 “(D) Full or partial exemption from ad valorem property taxes on the terms described in this  
8 subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem  
9 property taxes that uses a definition of ‘low income’ to mean income at or below 60 percent of the  
10 area median income and for which the multifamily structure is otherwise eligible, the city or county  
11 shall allow the multifamily structure of the developer to qualify using a definition of ‘low income’  
12 to mean income at or below 80 percent of the area median income.

13 **“(e) Does not apply to a CCRC, as defined in ORS 101.020, that executes and records a**  
14 **covenant with the applicable city or county in which the CCRC agrees to operate all units**  
15 **within its structure as a CCRC. Units within a CCRC that are offered or converted into res-**  
16 **idential units that are for sale or rent and are not subject to ORS chapter 101 must comply**  
17 **with regulations, provisions or requirements adopted by the city or county that are consist-**  
18 **ent with those applicable to a new multifamily structure under subsection (3) or (4) of this**  
19 **section.**

20 “(6) A regulation, provision or requirement adopted or imposed under subsection (4) of this  
21 section may offer developers one or more of the following incentives:

22 “(a) Density adjustments.

23 “(b) Expedited service for local permitting processes.

24 “(c) Modification of height, floor area or other site-specific requirements.

25 “(d) Other incentives as determined by the city or county.

26 “(7) Subsection (4) of this section does not restrict the authority of a city or county to offer  
27 developers voluntary incentives, including incentives to:

28 “(a) Increase the number of affordable housing units in a development.

29 “(b) Decrease the sale or rental price of affordable housing units in a development.

30 “(c) Build affordable housing units that are affordable to households with incomes equal to or  
31 lower than 80 percent of the median family income for the county in which the housing is built.

32 “(8)(a) A city or county that adopts or imposes a regulation, provision or requirement described  
33 in subsection (4) of this section may not apply the regulation, provision or requirement to any  
34 multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160,  
35 has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required,  
36 a building permit application has been submitted to the city or county prior to the effective date  
37 of the regulation, provision or requirement.

38 “(b) If a multifamily structure described in paragraph (a) of this subsection has not been com-  
39 pleted within the period required by the permit issued by the city or county, the developer of the  
40 multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or  
41 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building  
42 permit application under the regulation, provision or requirement adopted by the city or county  
43 under subsection (4) of this section.

44 “(9)(a) A city or county that adopts or imposes a regulation, provision or requirement under  
45 subsection (4) of this section shall adopt and apply only clear and objective standards, conditions

1 and procedures regulating the development of affordable housing units within its jurisdiction. The  
2 standards, conditions and procedures may not have the effect, either individually or cumulatively,  
3 of discouraging development of affordable housing units through unreasonable cost or delay.

4 “(b) Paragraph (a) of this subsection does not apply to:

5 “(A) An application or permit for residential development in an area identified in a formally  
6 adopted central city plan, or a regional center as defined by Metro, in a city with a population of  
7 500,000 or more.

8 “(B) An application or permit for residential development in historic areas designated for pro-  
9 tection under a land use planning goal protecting historic areas.

10 “(c) In addition to an approval process for affordable housing based on clear and objective  
11 standards, conditions and procedures as provided in paragraph (a) of this subsection, a city or  
12 county may adopt and apply an alternative approval process for applications and permits for resi-  
13 dential development based on approval criteria regulating, in whole or in part, appearance or aes-  
14 thetics that are not clear and objective if:

15 “(A) The developer retains the option of proceeding under the approval process that meets the  
16 requirements of paragraph (a) of this subsection;

17 “(B) The approval criteria for the alternative approval process comply with applicable statewide  
18 land use planning goals and rules; and

19 “(C) The approval criteria for the alternative approval process authorize a density at or above  
20 the density level authorized in the zone under the approval process provided in paragraph (a) of this  
21 subsection.

22 “(10) If a regulation, provision or requirement adopted or imposed by a city or county under  
23 subsection (4) of this section requires that a percentage of housing units in a new multifamily  
24 structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6)  
25 of this section shall be related in a manner determined by the city or county to the required per-  
26 centage of affordable housing units.”.

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