House Bill 3226
Sponsored by Representative BARRETO, Senator HANSELL

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.

Requires local governments to allow building across lot lines if owner has recorded covenant not to sell separately. Establishes conditions under which covenant may be recorded.

A BILL FOR AN ACT

Relating to covenants not to sell separately.

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

SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS chapter 197.

SECTION 2. (1) A local government shall permit development of properties under a covenant not to sell separately under section 5 of this 2019 Act as a single lot or parcel, without regard to any interior property lines for land use planning purposes.

(2) The consideration of multiple properties as a single lot or parcel under subsection (1) of this section:

(a) Allows for:

(A) Combining the properties for the purpose of meeting acreage requirements.

(B) Requiring building setbacks, including setbacks as described in ORS 227.290.

(C) A building or permanent structure to cross interior property lines.

(b) May not be used to authorize a dwelling not otherwise authorized on lands zoned for forest use or exclusive farm use.

SECTION 3. (1) A local government may terminate a covenant not to sell separately as described in section 5 of this 2019 Act upon an application by an owner for termination that is accompanied by a survey map prepared by a registered professional land surveyor and includes the location and dimensions of any encroachment that crosses an interior property line.

(2) An application for termination under this section may not be approved unless the property lines between the lots or parcels subject to a covenant described in subsection (1) of this section are not crossed by encroachments, except if authorized by the local government based on former or concurrent property line adjustment or easement acknowledging the encroachment.

SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS chapter 93.

SECTION 5. (1) As used in this section, “contiguous properties” means two or more lots or parcels that have a common property line, as defined in ORS 92.010, other than a common property line formed by:

(a) A body of water;
(b) A public right-of-way, including a road or alley; or

c) A zoning or political boundary, including a county boundary, a city boundary or an
urban growth boundary, or a change in allowable uses in zoning.

(2) An owner of two or more contiguous properties may cause to be recorded a covenant
not to sell separately in the real property records of the county in which any part of the
property is located.

(3) A covenant not to sell separately under this section must contain:

(a) A covenant, binding on the successors of the property, that the owner of the contigu-
ous properties may only use and convey the encumbered properties together;

(b) A declaration that each property encumbered by the covenant may not be conveyed
or encumbered separately;

(c) A legal description of each property encumbered by the covenant; and

(d) The acknowledged signature of the owner of the properties.

(4) A county clerk may not record an instrument from an owner or the owner's succes-
sor that attempts to voluntarily convey or encumber less than all of the properties affected
by a covenant not to sell separately, unless recorded after, or together with, an order of a
local government terminating the covenant under section 3 of this 2019 Act.