

# Senate Bill 336

Sponsored by Senator BAERTSCHIGER JR (Pre-session filed.)

## 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**.

Removes 10-year limitation on subsequent purchasers subdividing or partitioning property or establishing a dwelling authorized by Ballot Measure 49 (2007) final order.

## A BILL FOR AN ACT

1  
2 Relating to waivers of land use regulations; amending section 11, chapter 424, Oregon Laws 2007.

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

4 **SECTION 1.** Section 11, chapter 424, Oregon Laws 2007, as amended by section 14, chapter 855,  
5 Oregon Laws 2009, is amended to read:

6 **Sec. 11.** (1) A subdivision or partition of property, or the establishment of a dwelling on prop-  
7 erty, authorized under sections 5 to 11, chapter 424, Oregon Laws 2007, must comply with all ap-  
8 plicable standards governing the siting or development of the dwelling, lot or parcel including, but  
9 not limited to, the location, design, construction or size of the dwelling, lot or parcel. However, the  
10 standards must not be applied in a manner that has the effect of prohibiting the establishment of the  
11 dwelling, lot or parcel authorized under sections 5 to 11, chapter 424, Oregon Laws 2007, unless the  
12 standards are reasonably necessary to avoid or abate a nuisance, to protect public health or safety  
13 or to carry out federal law.

14 (2) If the property described in a claim is bisected by an urban growth boundary, any new  
15 dwelling, lot or parcel established on the property pursuant to an order under section 6, chapter 424,  
16 Oregon Laws 2007, must be located on the portion of the property outside the urban growth  
17 boundary.

18 (3) Before beginning construction of any dwelling authorized under section 6 or 7, chapter 424,  
19 Oregon Laws 2007, the owner must comply with the requirements of ORS 215.293 if the property is  
20 in an exclusive farm use zone, a forest zone or a mixed farm and forest zone.

21 (4)(a) A city or county may approve the creation of a lot or parcel to contain a dwelling au-  
22 thorized under sections 5 to 11, chapter 424, Oregon Laws 2007. However, a new lot or parcel lo-  
23 cated in an exclusive farm use zone, a forest zone or a mixed farm and forest zone may not exceed:

24 (A) Two acres if the lot or parcel is located on high-value farmland, on high-value forestland or  
25 on land within a ground water restricted area; or

26 (B) Five acres if the lot or parcel is not located on high-value farmland, on high-value forestland  
27 or on land within a ground water restricted area.

28 (b) If the property is in an exclusive farm use zone, a forest zone or a mixed farm and forest  
29 zone, the new lots or parcels created must be clustered so as to maximize suitability of the remnant  
30 lot or parcel for farm or forest use.

31 (5) If an owner is authorized to subdivide or partition more than one property, or to establish

**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 dwellings on more than one property, under sections 5 to 11, chapter 424, Oregon Laws 2007, and  
2 the properties are in an exclusive farm use zone, a forest zone or a mixed farm and forest zone, the  
3 owner may cluster some or all of the dwellings, lots or parcels on one of the properties if that  
4 property is less suitable than the other properties for farm or forest use. If one of the properties is  
5 zoned for residential use, the owner may cluster some or all of the dwellings, lots or parcels that  
6 would have been located in an exclusive farm use zone, a forest zone or a mixed farm and forest  
7 zone on the property zoned for residential use.

8 (6) An owner is not eligible for more than 20 home site approvals under sections 5 to 11, chapter  
9 424, Oregon Laws 2007, regardless of how many properties that person owns or how many claims  
10 that person has filed.

11 (7) An authorization to partition or subdivide the property, or to establish dwellings on the  
12 property, granted under section 6, 7 or 9, chapter 424, Oregon Laws 2007, runs with the property  
13 and may be either transferred with the property or encumbered by another person without affecting  
14 the authorization. There is no time limit on when an authorization granted under section 6, 7 or 9,  
15 chapter 424, Oregon Laws 2007, must be carried out[, *except that once the owner who obtained the*  
16 *authorization conveys the property to a person other than the owner's spouse or the trustee of a*  
17 *revocable trust in which the owner is the settlor, the subsequent owner of the property must create the*  
18 *lots or parcels and establish the dwellings authorized by a waiver under section 6, 7 or 9, chapter 424,*  
19 *Oregon Laws 2007, within 10 years of the conveyance*]. In addition:

20 (a) A lot or parcel lawfully created based on an authorization under section 6, 7 or 9, chapter  
21 424, Oregon Laws 2007, remains a discrete lot or parcel, unless the lot or parcel lines are vacated  
22 or the lot or parcel is further divided, as provided by law; and

23 (b) A dwelling or other residential use of the property based on an authorization under section  
24 6, 7 or 9, chapter 424, Oregon Laws 2007, is a permitted use and may be established or continued  
25 by the claimant or a subsequent owner[, *except that once the claimant conveys the property to a person*  
26 *other than the claimant's spouse or the trustee of a revocable trust in which the claimant is the settlor,*  
27 *the subsequent owner must establish the dwellings or other residential use authorized under section*  
28 *6, 7 or 9, chapter 424, Oregon Laws 2007, within 10 years of the conveyance*].

29 (8) When relief has been claimed under sections 5 to 11, chapter 424, Oregon Laws 2007:

30 (a) Additional relief is not due; and

31 (b) An additional claim may not be filed, compensation is not due and a waiver may not be is-  
32 sued with regard to the property under ORS 195.305 to 195.336 and sections 5 to 11, chapter 424,  
33 Oregon Laws 2007, or ORS 195.305 as in effect immediately before December 6, 2007, except with  
34 respect to a land use regulation enacted after January 1, 2007.

35 (9) A person that is eligible to be a holder as defined in ORS 271.715 may acquire the rights to  
36 carry out a use of land authorized under sections 5 to 11, chapter 424, Oregon Laws 2007, from a  
37 willing seller in the manner provided by ORS 271.715 to 271.795. Metro, cities and counties may  
38 enter into cooperative agreements under ORS chapter 195 to establish a system for the purchase  
39 and sale of severable development interests as described in ORS 94.531. A system established under  
40 this subsection may provide for the transfer of severable development interests between the juris-  
41 dictions of the public entities that are parties to the agreement for the purpose of allowing devel-  
42 opment to occur in a location that is different from the location in which the development interest  
43 arises.

44 (10) If a claimant is an individual, the entitlement to prosecute the claim under section 6, 7 or  
45 9, chapter 424, Oregon Laws 2007, and an authorization to use the property provided by a waiver

1 under section 6, 7 or 9, chapter 424, Oregon Laws 2007:

2 (a) Is not affected by the death of the claimant if the death occurs on or after December 6, 2007;

3 and

4 (b) Passes to the person that acquires the property by devise or by operation of law.

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