

# Senate Bill 629

Sponsored by Senator BENTZ (at the request of Kevin Mabe)

## 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**.

Allows transfers of certain authorizations for dwelling within farm or forest zone as property interest in land. Provides that authorization does not expire.

Applies to existing authorizations.

## A BILL FOR AN ACT

1  
2 Relating to dwellings in resource lands; creating new provisions; and amending ORS 215.705.

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

4 **SECTION 1.** ORS 215.705 is amended to read:

5 215.705. (1) A governing body of a county or its designate may allow the establishment of a  
6 single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this  
7 section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the  
8 governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

9 (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired  
10 by the present owner:

11 (A) Prior to January 1, 1985; or

12 (B) By devise or by intestate succession from a person who acquired the lot or parcel prior to  
13 January 1, 1985.

14 (b) The tract on which the dwelling will be sited does not include a dwelling.

15 (c) The proposed dwelling is not prohibited by, and will comply with, the requirements of the  
16 acknowledged comprehensive plan and land use regulations and other provisions of law.

17 (d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that  
18 high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this  
19 section.

20 (e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in  
21 ORS 215.720, 215.740 or 215.750.

22 (f) When the lot or parcel on which the dwelling will be sited lies within an area designated in  
23 an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent  
24 with the limitations on density upon which the acknowledged comprehensive plan and land use  
25 regulations intended to protect the habitat are based.

26 (g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining  
27 portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

28 (2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family  
29 dwelling not in conjunction with farm use may be sited on high-value farmland if:

30 (A) It meets the other requirements of ORS 215.705 to 215.750;

31 (B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1);

**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 and

2 (C) A hearings officer of a county determines that:

3 (i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with  
4 other land, due to extraordinary circumstances inherent in the land or its physical setting that do  
5 not apply generally to other land in the vicinity.

6 (ii) The dwelling will comply with the provisions of ORS 215.296 (1).

7 (iii) The dwelling will not materially alter the stability of the overall land use pattern in the  
8 area.

9 (b) A local government shall provide notice of all applications for dwellings allowed under this  
10 subsection to the State Department of Agriculture. Notice shall be provided in accordance with the  
11 governing body's land use regulations but shall be mailed at least 20 calendar days prior to the  
12 public hearing before the hearings officer under paragraph (a) of this subsection.

13 (3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling  
14 not in conjunction with farm use may be sited on high-value farmland if:

15 (a) It meets the other requirements of ORS 215.705 to 215.750.

16 (b) The tract on which the dwelling will be sited is:

17 (A) Identified in ORS 215.710 (3) or (4);

18 (B) Not protected under ORS 215.710 (1); and

19 (C) Twenty-one acres or less in size.

20 (c)(A) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller  
21 than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993;

22 (B) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts  
23 that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-  
24 quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the  
25 urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

26 (C) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that  
27 are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter  
28 mile of the center of the subject tract and on the same side of the public road that provides access  
29 to the subject tract. The governing body of a county must interpret the center of the subject tract  
30 as the geographic center of the flaglot if the applicant makes a written request for that interpreta-  
31 tion and that interpretation does not cause the center to be located outside the flaglot. Up to two  
32 of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts  
33 an urban growth boundary. As used in this subparagraph:

34 (i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from  
35 the public road to the rest of the tract.

36 (ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines  
37 of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to  
38 that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

39 (4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compli-  
40 ance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use  
41 zone under this chapter, the county may apply the standards for siting a dwelling under either  
42 subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predom-  
43 inant use of the tract on January 1, 1993.

44 (5) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling  
45 allowed under this section in any area where the county determines that approval of the dwelling

1 would:

2 (a) Exceed the facilities and service capabilities of the area;

3 (b) Materially alter the stability of the overall land use pattern in the area; or

4 (c) Create conditions or circumstances that the county determines would be contrary to the  
5 purposes or intent of its acknowledged comprehensive plan or land use regulations.

6 (6) For purposes of subsection (1)(a) of this section, “owner” includes the spouses in a marriage,  
7 son, daughter, parent, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,  
8 parent-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the  
9 owner or a business entity owned by any one or combination of these family members.

10 (7) When a local government approves an application for a single-family dwelling under the  
11 provisions of this section, the [*application may be transferred by a person who has qualified under*  
12 *this section to any other person after the effective date of the land use decision.*] **approval runs with**  
13 **the property, and the authorization may be either transferred with the property or encum-**  
14 **bered by another person without affecting the authorization. An authorization granted un-**  
15 **der this section may be carried out at any time and does not expire.**

16 **SECTION 2. The amendments to ORS 215.705 by section 1 of this 2019 Act apply to au-**  
17 **thorizations approved before, on or after the effective date of this 2019 Act.**

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