



The Land Use Board of Appeals (LUBA) is introducing House Bill (HB) 2110 for the 2021 legislative session.

Currently, a Notice of Intent to Appeal (NITA) a land use decision to LUBA must “be accompanied by a filing fee of \$200 and a deposit for costs to be established by the board.” ORS 197.830(9). The deposit for costs is currently \$200, established by rule.

HB 2110 amends ORS 197.830 in two ways. First, it increases the filing fee from \$200 to \$300. LUBA’s filing fee was originally \$50, when the agency was created in 1979. The last increase to the filing fee was 11 years ago in 2009, when the Legislature increased the filing fee from \$175 to \$200. An increase in the filing fee from \$200 to \$300 for the first time in 11 years is a reasonable increase given inflation. For comparison, the filing fee for state circuit courts is \$263 and the filing fee for the Court of Appeals is \$391.

Second, HB 2110 eliminates the requirement that a NITA be accompanied by a deposit for costs. LUBA currently has discretion to award the \$200 deposit for costs to a successful local government. In practice, in the majority of cases where the local government is the prevailing party, the local government does not seek an award of the deposit for costs. Consequently, the \$200 deposit for costs is returned to the petitioner at the conclusion of an appeal. The administrative costs of this practice to the agency far outweigh any benefit to the local government of receiving a check *directly from LUBA* for the cost of preparing the local record. Rather than having those costs paid from the deposit held by LUBA, LUBA will amend its procedural rules concurrent with this legislation to provide that, when the local government is the prevailing party and seeks reimbursement for the cost of preparing the record, LUBA will award the local government up to \$200 to be paid directly by the petitioner/losing party. This will largely eliminate the need for accounting by agency staff, allowing LUBA staff to focus more attention on duties that allow the agency to meet its statutory deadlines to resolve land use appeals. The state courts long ago ceased collecting a deposit for costs.