

## HB 3414 -5, -6 STAFF MEASURE SUMMARY

### House Committee On Rules

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**Prepared By:** Claire Adamsick

**Sub-Referral To:** Joint Committee On Ways and Means

**Meeting Dates:** 5/9

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#### WHAT THE MEASURE DOES:

Limits conditions under which local government may deny an application for a variance from land use regulations of a residential development within an urban growth boundary and on lands zoned for residential use. Allows denial if necessary for health, safety, or habitability issues, or if the variance request is related to density, height, or floor-area ratio of the development. Directs Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to establish Housing Accountability and Production Office (Office) and describes the departments' respective rulemaking authority. Describes duties of Office in providing technical assistance for local jurisdictions and housing developers to reduce permitting and land use barriers to housing production and to investigate and respond to violations of housing laws as defined by Act. Allows Office to take enforcement actions upon a local government's continued violation of housing laws, including actions in conjunction with enforcement measures taken by DLCD or the Land Conservation Development Commission. Requires Office, through third-party contractor, to submit, on or before September 15, 2024, a report to interim committee of Legislative Assembly, identifying improvements to local government approval processes in support of increased housing production. Appropriates, for the biennium beginning July 1, 2023, \$1.1 million in General Fund moneys to DLCD and \$1.1 million to DCBS to carry out provisions of Act.

*FISCAL: Fiscal impact issued*

*REVENUE: No revenue impact*

#### ISSUES DISCUSSED:

##### EFFECT OF AMENDMENT:

-5 Requires a local government to grant an adjustment to specified development and design standards for an application for a limited land use decision or building permit for the development of multifamily, mixed-use residential or middle housing within an urban growth boundary, subject to certain conditions and affordability requirements. Requires local government, within 30 days of receipt of complete application, to notify applicant if application satisfies criteria and allow, if necessary, additional 30 days for applicant to submit additional evidence for evaluation. Clarifies final decision may be appealed only by applicant. Repeals provisions related to local government adjustment approval on January 2, 2032.

Directs Housing Accountability and Production Office (Office) to establish, by April 1, 2024, process for receiving and investigating allegations by residential developers of local governments' violations of housing laws. Describes notice requirements and options to remedy suspected violation. Clarifies enforcement actions by the Office do not amend the jurisdiction of the Land Use Board of Appeals or a circuit court, nor extend the statute of limitations or any claim or deadline for appeal or other action except as provided by Act.

Allows applicants for the development of needed housing, and any local government that approved a quasi-judicial land use decision, to obtain attorney fees in prevailing appeals before the Land Use Board of Appeals, provided the notice of intent to appeal is filed on or after January 1, 2024.

Appropriates, for the biennium beginning July 1, 2023, unspecified General Fund moneys to the Department of Land Conservation and Development (DLCD) to perform the duties of the Office as described by Act. Allocates

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*This summary has not been adopted or officially endorsed by action of the committee.*

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additional unspecified funds to DLCD to provide technical assistance and grants to local governments to update local housing laws to align with state requirements and to implement voluntary compliance agreements.

Declares emergency, effective on passage.

-6 Describes criteria under which a local government may deny an application for a variance, modification, or adjustment to modify a land use regulation for a building permit or land use application for new residential development. Clarifies variance or modification allowed under measure applies only to specific permit or application and does not amend a land use regulation. Requires local government, within 30 days of receipt of complete application, to notify applicant if application satisfies criteria and allow, if necessary, additional 30 days for applicant to submit additional evidence for evaluation. Clarifies final decision may be appealed only by applicant. Repeals provisions related to local government variance approval on January 2, 2033.

Describes duties of Housing Accountability and Production Office (Office) in supporting implementation of local procedures and standards relating to approval of residential development projects. Directs office to establish, by April 1, 2024, process for receiving and acting on an allegation of a local government's violation of housing laws, and allows alleged violations to be self-reported by a local government or by applicants, or any other persons at any time. Describes notice requirements and options to remedy suspected violation. Directs Office, in taking enforcement actions, to consider a local government's self-reported violations or voluntary compliance agreements.

Allows applicants for the development of needed housing, and any local government that approved a quasi-judicial land use decision, to obtain attorney fees in prevailing appeals before the Land Use Board of Appeals, provided the notice of intent to appeal is filed on or after January 1, 2024.

Appropriates, for the biennium beginning July 1, 2023, \$5.4 million in General Fund moneys to the Department of Land Conservation and Development to perform the duties of the Office as described by Act.

Declares emergency, effective on passage.

### **BACKGROUND:**

According to the Department of Land Conservation and Development (DLCD), Oregon needs to develop more than 550,000 new housing units across income levels to accommodate 20 years of population growth and to account for current underproduction and the lack of units for people experiencing homelessness. DLCD estimates that approximately 49 percent of this housing will require public subsidy. The department reported in its February 2021 Regional Housing Needs Analysis report that underproduction may be attributed to high land and construction costs, inadequate infrastructure, and limited local government capacity, among other factors. The Oregon Office of Economic Analysis has reported on the longer-term impacts of housing production, including slowing economic growth and potential increased displacement of Oregonians who cannot afford to rent or buy a home.

In 2021, the Legislative Assembly enacted Senate Bill 8, which restricted local governments from denying or limiting the approval of affordable housing applications, subject to certain zoning and property ownership conditions. The measure established density standards and conditions under which local governments must approve affordable housing applications.

House Bill 3414 limits the conditions under which a local government is allowed to deny an application for a land use variance on a residential development within the UGB and on land zoned for residential use. The measure directs DLCD and the Department of Consumer and Business Services (DCBS) to jointly establish the Housing Accountability and Production Office to provide both technical assistance and take enforcement measures

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necessary to assist local jurisdictions in identifying and reducing permitting and land use barriers to housing production. It appropriates a total of \$2.2 million to DLCDC and DCBS to establish and implement the Housing Accountability and Production Office.

PRELIMINARY