

HB 3414 -13, -14 STAFF MEASURE SUMMARY

House Committee On Rules

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 5/9, 6/1

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:

- Provisions of amendments
- Balancing local government autonomy with housing production needs
- Clarifying authority between lead agencies (DLCD/DCBS)
- Funding mechanism needed to address local government technical assistance needs
- Potential impact of state wildfire risk maps on development to which measure applies

EFFECT OF AMENDMENT:

-13 Replaces the measure.

Requires a local government to grant an adjustment, as defined by the measure, to specified development standards and design standards for an application for a building permit or quasi-judicial land use decision, for uses that are allowed outright and whose residential components are subject to clear and objective standards, and that may be resolved through a local government's administrative process. Specifies eligible development must be on lands zoned for residential or mixed-use residential use, is within an urban growth boundary, and will yield net new housing units. Requires application for adjustment to demonstrate the adjustment is for a development that will be affordable to a household earning 120 percent of area median income and that development will enable an increase in number of units, reduction in sale or rental price per unit, or units will be subject to a specified affordability covenant.

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

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evaluation. Specifies timelines and process for appeal and issuance of final decision; clarifies a land use decision may be appealed only by applicant.

Directs cities with a population of 10,000 or greater to include housing developed through adjustment approvals as part of annual housing capacity reporting to the Department of Land Conservation and Development (DLCD); requires DLCD to report on this data to Legislative Assembly on or before September 15 of each even-numbered year.

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 duties of 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 investigating allegations by residential developers of local governments' violations of housing laws. Describes notice requirements and options to remedy suspected violation. 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, Land Conservation Development Commission, or DCBS.

Directs Office, through an outside contractor, to provide report to the Legislative Assembly by September 15, 2024 identifying improvements in local development approval, land use, zoning and permitting process.

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 DLCD to perform the duties of the Office as described by Act. Appropriates unspecified General Fund moneys to DLCD for technical assistance grants to local governments to update local housing laws and to implement voluntary compliance agreements.

Declares emergency, effective July 1, 2023.

-14 Replaces the measure.

Requires a local government to grant an adjustment, as defined by the measure, to specified development standards for an application for a building permit or quasi-judicial land use decision. Requires a local government to grant an adjustment to specified design standards except for building code-related standards. Specifies eligible development must be on lands zoned for residential or mixed-use residential use, is within an urban growth boundary, and will yield net new housing units. Requires application for adjustment to affirm the adjustment will enable an increase in number of units, reduction in sale or rental price per unit, or units will be subject to a specified affordability covenant.

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. Specifies timelines and process for appeal and issuance of final decision; clarifies a land use decision may be appealed only by applicant or the Housing Accountability and Production Office.

Directs cities with a population of 10,000 or greater to include housing developed through adjustment approvals as part of annual housing capacity reporting to the Department of Land Conservation and Development (DLCD);

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requires DLCD to report on this data to Legislative Assembly on or before September 15 of each even-numbered year.

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 duties of 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 investigating allegations by residential developers of local governments' violations of housing laws. Describes notice requirements and options to remedy suspected violation. Directs Office to prioritize technical assistance funding to local governments that agree to comply with housing laws. 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, Land Conservation Development Commission, or DCBS.

Directs Office, through an outside contractor, to provide report to the Legislative Assembly by September 15, 2024 identifying improvements in local development approval, land use, zoning and permitting process.

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 DLCD to perform the duties of the Office as described by Act. Appropriates \$10 Million to DLCD for educational materials, technical assistance and grants to local governments to update local implementation of land use laws and building code enforcement to align with state requirements and to implement voluntary compliance agreements.

Declares emergency, effective July 1, 2023.

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 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 DLCD and DCBS to establish and implement the Housing

Accountability and Production Office.

PRELIMINARY