

HB 3442 A STAFF MEASURE SUMMARY
Senate Committee On Housing and Development

Carrier: Sen. Anderson

Action Date: 05/10/23
Action: Do pass the A-Eng bill.
Vote: 3-1-0-1
Yeas: 3 - Anderson, Jama, Patterson
Nays: 1 - Sollman
Abs: 1 - Knopp
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Kevin Rancik, LPRO Analyst
Meeting Dates: 4/24, 5/10

WHAT THE MEASURE DOES:

Allows local government to approve affordable housing in 100-year floodplains or on property constrained by land use regulations based on natural disasters and hazards, if, within the property's urban growth boundary, 60 percent of land is within a tsunami inundation zone or 30 percent is within a 100-year floodplain. Restricts such affordable housing to urban growth boundaries no more than 10 miles from the Pacific Ocean; areas requiring compliance with minimum National Flood Insurance Program regulations or, provided they are stronger, local floodplain development regulations; locations not including public parks, floodways, or areas at risk of high water velocity and debris flow; and communities with emergency response, evacuation, and post-disaster plans updated to account for the development. Allows local government to require a zone change or conditional use permit for eligible housing. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Geographic focus of bill
- Construction and insurance impact on housing affordability
- Use of housing as primary residence
- Prior legislation relating to construction in tsunami zones
- Effect of climate change on flood events
- Optional participation of localities in bill provisions

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Local governments may deny or condition the approval of affordable housing applications based on a variety of factors, including whether the application proposes to develop on land zoned for residential use and the nature of the property ownership. A local government's denial of an affordable housing application may be challenged through the Land Use Board of Appeals (LUBA), a three-member board of lawyers who belong to the Oregon State Bar, appointed by the Governor and confirmed by the Oregon Senate to serve four-year terms.

In 2021, the Legislative Assembly enacted Senate Bill 8, which restricted local governments from denying or limiting the approval of affordable housing applications on lands within an urban growth boundary, subject to certain zoning and property ownership conditions. The measure specified the provisions did not apply on lands where the property is within a 100-year floodplain, or the development of the property is constrained by land use regulations based on statewide land use planning goals related to natural disasters and hazards.

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Also in 2021, the Legislative Assembly enacted House Bill 2605, which required Risk Category III and IV structures constructed in tsunami inundation zones after January 1, 2022, to meet minimum design criteria. The bill required developers of these structures to consult with the Department of Geology and Mineral Industries. Risk categories III and IV primarily cover critical infrastructure such as power and water facilities, and some emergency response and medical facilities. Some residential care facilities also fall into those categories, but residential structures in general do not.

House Bill 3442 A allows a local government to approve affordable housing applications on property that is within a 100-year floodplain or subject to development constraints under land use regulations relating to natural disasters and hazards, with certain conditions. The measure specifies an eligible development must be within an urban growth boundary of a city no more than 10 miles from the Pacific Ocean and in areas requiring compliance with specified federal or local flood insurance and development regulations. The measure prohibits affordable housing from being sited in floodways or in public parks, and it allows local governments to prohibit affordable housing or require a zone change or conditional use permit to develop affordable housing in areas allowed by the measure.