

**HB 2192 B STAFF MEASURE SUMMARY****Carrier:** Sen. Girod**Senate Committee On Natural Resources****Action Date:** 05/17/23**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Golden, Prozanski, Smith DB, Taylor**Exc:** 1 - Girod**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Laura Kentnesse, LPRO Analyst**Meeting Dates:** 5/3, 5/17**WHAT THE MEASURE DOES:**

Aligns criteria applicable to the alteration, restoration, or replacement of lawfully established dwellings on forestland with the criteria for certain farmland dwellings. Allows for a lawfully established dwelling to be altered, restored, or replaced if: (1) the county determines that the dwelling formerly had intact exterior walls and roof structure, indoor plumbing, interior wiring for interior lights, and a heating system and (2) unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of five years before the date of the application or the date that the dwelling was built and became subject to property tax assessment; or if the value of the dwelling was eliminated as a result of destruction or demolition it was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of five years before the date of the destruction or demolition or the date that the dwelling was built and became subject to property tax assessment. Removes provisions specifying that applicable construction codes related to building, plumbing, sanitation, and health and safety may not be applied to the replacement dwelling if doing so would prohibit the siting of the replacement dwelling. Requires that an application for a replacement building must be filed within three years following the date that the dwelling last possessed all of the required qualifying features. Requires that the construction of the replacement dwelling must commence no later than four years after its application is approved and finalized. Requires that a replacement dwelling comply with the construction provisions of section R327 of the Oregon Residential Specialty Code if the dwelling is in an area identified as extreme or high wildfire risk on the statewide wildfire risk map or if no statewide wildfire risk map has been adopted.

**ISSUES DISCUSSED:**

- Current inconsistency of "has" versus "had" verb tense in replacement dwelling statutes for forest zones compared to farm zones and 2020 wildfire rebuilds
- Most counties have interpreted the present tense "has" statute to allow for rebuilding even if certain features like a roof were not intact at the time of application
- Lane County deviation to interpret the present tense plain meaning literally
- Land Use Board of Appeals nonbinding opinion that indicated they would likely agree with Lane County's interpretation if the issue ever came before them
- Potential applicability of Senate Bill 644 (2023) provision for building accessory dwelling units to R327 building code standards

**EFFECT OF AMENDMENT:**

Adds a requirement related to assessment for the purposes of ad valorem taxation that is dependent on whether the value of the dwelling was eliminated as a result of destruction or demolition. Modifies the requirement that application be filed within three years following the date that the dwelling last possessed "all" of the specified

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structural features, rather than "at least one of" the features. Requires that a replacement dwelling comply with the construction provisions of section R327 of the Oregon Residential Specialty Code if the dwelling is in an area identified as extreme or high wildfire risk on the statewide wildfire risk map or if no statewide wildfire risk map has been adopted.

### **BACKGROUND:**

On lands zoned for forest use, current law provides for alteration, restoration, or replacement of lawfully established dwellings as a permitted use if the dwelling "has" intact exterior walls, an intact roof structure, indoor plumbing connected to a sanitary waste disposal system, interior electric wiring, and a heating system. If the dwelling is being replaced, it must be removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. Forestland dwelling statutes do not allow for alteration, restoration, or replacement of dwellings that no longer have intact walls and other structural components and do not meet requirements related to ad valorem taxation.

By contrast, on lands zoned for exclusive farm use, current law provides for alteration, restoration, or replacement of lawfully established dwellings as a permitted use if the dwelling "has" or "formerly had" intact structural features (House Bill 2746, 2013). Similarly, House Bill 2289 (2021) required that a local government approve an application to alter, restore, or replace a dwelling affected by the 2020 Labor Day wildfires if the former dwelling "had" intact structural features.

House Bill 2192 B would modify requirements for a lawfully established forestland dwelling to be altered, restored, or replaced.