

House Bill 2488

Sponsored by Representative OWENS, Senator FINDLEY, Representative MORGAN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits insurance company from considering map of wildfire risk when determining insurance rate.

Directs State Board of Forestry to adopt new definition of term "wildland-urban interface."

Provides that map of wildfire risk must display wildfire risk classes only for properties within wildland-urban interface.

Provides that State Forestry Department shall develop map of wildfire risk only after Department of Land Conservation and Development and Department of Consumer and Business Services have taken certain actions.

A BILL FOR AN ACT

Relating to wildfire risk; creating new provisions; and amending ORS 215.495, 476.392, 476.690, 477.027 and 477.490 and sections 7a, 8c and 12d, chapter 592, Oregon Laws 2021.

Be It Enacted by the People of the State of Oregon:

MAP RELATION TO INSURANCE RATES

SECTION 1. An insurance company may not consider the map of wildfire risk described in ORS 477.490 when determining an insurance rate.

DEFINITION OF "WILDLAND-URBAN INTERFACE"

SECTION 2. The State Board of Forestry shall adopt by rule a new definition of the term "wildland-urban interface," as referenced in ORS 477.027, based on substantial public input.

APPLICATION OF MAP

SECTION 3. ORS 477.490 is amended to read:

477.490. (1) The State Forestry Department shall oversee the development and maintenance of a [*comprehensive statewide*] map of wildfire risk that displays the wildfire risk classes described in subsection (4) of this section and populates the Oregon Wildfire Risk Explorer.

(2) The Oregon Wildfire Risk Explorer must be the official wildfire planning and risk classification mapping tool for the State of Oregon.

(3) The State Board of Forestry shall establish by rule criteria by which the map must be developed and maintained, including criteria concerning the use of the most current wildfire assessments.

(4) In consultation with Oregon State University, the department shall establish five [*statewide*] wildfire risk classes of extreme, high, moderate, low and no risk **within the wildland-urban inter-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **face, as defined by rule by the State Board of Forestry pursuant to ORS 477.027.** The classes
 2 must be:

3 (a) Consistent with ORS 477.027.

4 (b) Based on weather, climate, topography and vegetation.

5 (5) The department shall enter into an agreement with the university that provides that the
 6 university will develop and maintain the map and make the map publicly available in electronic form
 7 through the Oregon Wildfire Risk Explorer.

8 (6) The board shall adopt rules that:

9 **(a) Assign properties within the wildland-urban interface to the wildfire risk classes de-**
 10 **scribed in subsection (4) of this section.**

11 [(a)] (b) Provide opportunities for public input into the assignment of properties to the wildfire
 12 risk classes [*described in subsection (4) of this section*].

13 [(b)] (c) Require the department to provide notice and information about how a property owner
 14 may appeal an assignment of the property owner's property to the extreme or high wildfire risk
 15 class.

16 [(c)] (d) Allow affected property owners and local governments to appeal the assignment of
 17 properties to the wildfire risk classes after the map is developed, after any updates to the map and
 18 within a reasonable time after delivery of the notice and information described in paragraph [(b)]
 19 (c) of this subsection.

20 [(d)] (e) Establish a specific process for appeals through which a requested change in assignment
 21 is assessed based on:

22 (A) Whether the assignment is consistent with the criteria described in subsection (3) of this
 23 section;

24 (B) Any pertinent facts that may justify a change in the assignment; and

25 (C) Any error in the data the department used to determine the assignment, if the error justifies
 26 a change in the assignment.

27 (7) The map must:

28 (a) Be based on the wildfire risk classes.

29 (b) Be sufficiently detailed to allow the assessment of wildfire risk at the property-ownership
 30 level.

31 (c) Include the boundaries of the wildland-urban interface, as defined in ORS 477.015, consistent
 32 with national standards.

33 (d) Include a layer that geospatially displays the locations of socially and economically vulner-
 34 able communities.

35 (8) To develop and maintain the map, the university shall collaborate with the department, the
 36 State Fire Marshal, other state agencies, local governments, federally recognized Indian tribes in
 37 this state, other public bodies and any other information sources that the university deems appro-
 38 priate.

39 (9) In maintaining the map, the university shall make technical adjustments as needed and up-
 40 date the map consistent with the results of appeals described in subsection (6)(b) of this section.

41 (10) The university shall provide technical assistance to representatives of state and local gov-
 42 ernment, and to landowners, that use the map.

43 **SECTION 4.** ORS 215.495, as amended by section 5, chapter 85, Oregon Laws 2022, is amended
 44 to read:

45 215.495. (1) As used in this section:

1 (a) "Accessory dwelling unit" has the meaning given that term in ORS 215.501.

2 (b) "Area zoned for rural residential use" has the meaning given that term in ORS 215.501.

3 (c) "Single-family dwelling" has the meaning given that term in ORS 215.501.

4 (2) Consistent with a county's comprehensive plan, a county may allow an owner of a lot or
5 parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the
6 lot or parcel, provided:

7 (a) The lot or parcel is not located within an area designated as an urban reserve as defined in
8 ORS 195.137;

9 (b) The lot or parcel is at least two acres in size;

10 (c) One single-family dwelling is sited on the lot or parcel;

11 (d) The existing single-family dwelling property on the lot or parcel is not subject to an order
12 declaring it a nuisance or subject to any pending action under ORS 105.550 to 105.600;

13 (e) The accessory dwelling unit will comply with all applicable laws and regulations relating to
14 sanitation and wastewater disposal and treatment;

15 (f) The accessory dwelling unit will not include more than 900 square feet of useable floor area;

16 (g) The accessory dwelling unit will be located no farther than 100 feet from the existing
17 single-family dwelling;

18 (h) If the water supply source for the accessory dwelling unit or associated lands or gardens
19 will be a well using water under ORS 537.545 (1)(b) or (d), no portion of the lot or parcel is within
20 an area in which new or existing ground water uses under ORS 537.545 (1)(b) or (d) have been re-
21 stricted by the Water Resources Commission;

22 (i) No portion of the lot or parcel is within a designated area of critical state concern;

23 (j) The lot or parcel is served by a fire protection service provider with professionals who have
24 received training or certification described in ORS 181A.410;

25 (k) If the lot or parcel is in an area identified on the [statewide] map of wildfire risk described
26 in ORS 477.490 as within the wildland-urban interface, the lot or parcel and accessory dwelling unit
27 comply with any applicable minimum defensible space requirements for wildfire risk reduction es-
28 tablished by the State Fire Marshal under ORS 476.392 and any applicable local requirements for
29 defensible space established by a local government pursuant to ORS 476.392;

30 (L) [Statewide] Wildfire risk maps have been approved and the accessory dwelling unit complies
31 with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped
32 area; and

33 (m) The county has adopted land use regulations that ensure that:

34 (A) The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource
35 use;

36 (B) The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation
37 and staged evacuation areas; and

38 (C) If the accessory dwelling unit is not in an area identified on the [statewide] map of wildfire
39 risk described in ORS 477.490 as within the wildland-urban interface, the accessory dwelling unit
40 complies with the provisions of this section and any applicable local requirements for defensible
41 space established by a local government pursuant to ORS 476.392.

42 (3) A county may not allow an accessory dwelling unit allowed under this section to be used for
43 vacation occupancy, as defined in ORS 90.100.

44 (4) A county that allows construction of an accessory dwelling unit under this section may not
45 approve:

1 (a) A subdivision, partition or other division of the lot or parcel so that the existing single-family
 2 dwelling is situated on a different lot or parcel than the accessory dwelling unit.

3 (b) Construction of an additional accessory dwelling unit on the same lot or parcel.

4 (5) A county may require that an accessory dwelling unit constructed under this section be
 5 served by the same water supply source or water supply system as the existing single-family dwell-
 6 ing, provided such use is allowed for the accessory dwelling unit by an existing water right or a use
 7 under ORS 537.545. If the accessory dwelling unit is served by a well, the construction of the ac-
 8 cessory dwelling unit shall maintain all setbacks from the well required by the Water Resources
 9 Commission or Water Resources Department.

10 (6) An existing single-family dwelling and an accessory dwelling unit allowed under this section
 11 are considered a single unit for the purposes of calculating exemptions under ORS 537.545 (1).

12 (7) Nothing in this section requires a county to allow any accessory dwelling units in areas
 13 zoned for rural residential use or prohibits a county from imposing any additional restrictions on
 14 accessory dwelling units in areas zoned for rural residential use, including restrictions on the con-
 15 struction of garages and outbuildings that support an accessory dwelling unit.

16 **SECTION 5.** Section 12d, chapter 592, Oregon Laws 2021, is amended to read:

17 **Sec. 12d.** (1) The Department of Consumer and Business Services shall develop the interactive
 18 mapping tool described in [section 12c of this 2021 Act] **ORS 455.614** not more than 60 days after the
 19 [statewide] map of wildfire risk described in [section 7 of this 2021 Act] **ORS 477.490** is developed.

20 (2) Any delay in developing the tool may not affect a deadline concerning the map.

21 **SECTION 6.** ORS 476.392 is amended to read:

22 476.392. (1) The State Fire Marshal shall establish minimum defensible space requirements for
 23 wildfire risk reduction on lands in areas identified on the [statewide] map of wildfire risk described
 24 in ORS 477.490 as within the wildland-urban interface.

25 (2) The State Fire Marshal:

26 (a) Shall consult with the Oregon Fire Code Advisory Board to establish the requirements.

27 (b) Shall establish requirements that are consistent with and do not exceed the standards per-
 28 taining only to defensible space that are set forth in the International Wildland-Urban Interface
 29 Code published by the International Code Council, including the standards pertaining only to
 30 defensible space that are set forth in sections 603 and 604 of the code.

31 (c) May consider best practices specific to Oregon in order to establish the requirements.

32 (d) Shall periodically reexamine the standards set forth in the International Wildland-Urban
 33 Interface Code and update the requirements to reflect current best practices, in consultation with
 34 the Oregon Fire Code Advisory Board.

35 (e) Shall enforce the requirements that are applicable to lands within the jurisdiction of a local
 36 government.

37 (f) Shall adopt rules governing administration of the requirements.

38 (g) May develop and apply a graduated fee structure for use in assessing penalties on property
 39 owners for noncompliance with the requirements.

40 (h) Shall consult on implementation of the requirements.

41 (i) May adopt rules concerning reports by local governments described in subsection (4)(a) of
 42 this section.

43 (3) Subject to additional local requirements, the requirements shall apply statewide for all lands
 44 in the wildland-urban interface that are designated as extreme or high risk, as identified on the map.

45 (4) Notwithstanding subsection (2) of this section, a local government may:

1 (a) Administer, consult on and enforce the requirements established by the State Fire Marshal,
 2 within the jurisdiction of the local government. A local government that administers or enforces the
 3 requirements established by the State Fire Marshal shall periodically report to the State Fire Mar-
 4 shal regarding compliance with the requirements, including the extent of compliance for each prop-
 5 erty within the jurisdiction of the local government, any change in the degree of compliance since
 6 the last report and any other information required by the State Fire Marshal by rule.

7 (b) Adopt and enforce local requirements for defensible space that are greater than the re-
 8 quirements established by the State Fire Marshal. Any local requirements that a local government
 9 adopts for defensible space must be defensible space standards selected from the framework set forth
 10 in the International Wildland-Urban Interface Code or other best practices specific to Oregon.

11 (c) Designate local fire districts, fire departments or fire agencies to enforce the requirements
 12 established by the State Fire Marshal or the local government pursuant to paragraph (b) of this
 13 subsection. A local government that designates enforcement must comply with the reporting re-
 14 quirements in paragraph (a) of this subsection.

15 (5) The State Fire Marshal shall administer a community risk reduction program that empha-
 16 sizes education and methods of prevention with respect to wildfire risk, enforcement of defensible
 17 space requirements, response planning and community preparedness for wildfires.

18 (6) The State Fire Marshal may provide financial, administrative, technical or other assistance
 19 to a local government to facilitate the administration and enforcement of requirements within the
 20 jurisdiction of the local government. A local government shall expend financial assistance provided
 21 by the State Fire Marshal under this subsection to give priority to the creation of defensible space:

22 (a) On lands owned by members of socially and economically vulnerable communities, persons
 23 with limited proficiency in English and persons of lower income as defined in ORS 456.055.

24 (b) For critical or emergency infrastructure.

25 (c) For schools, hospitals and facilities that serve seniors.

26 **SECTION 7.** ORS 476.690 is amended to read:

27 476.690. (1) As used in this section, “defensible space” has the meaning given that term in ORS
 28 476.390.

29 (2) There is established a Wildfire Programs Advisory Council to advise and assist the State
 30 Wildfire Programs Director by:

31 (a) Closely monitoring implementation of activities related to wildfire prevention and response,
 32 including receiving and evaluating agency reports related to wildfire prevention and response.

33 (b) Providing advice on potential changes to the activities in order to fulfill the goal of dra-
 34 matically reducing wildfire risk in this state and ensuring that regional defensible space, building
 35 codes and land use applications are appropriate.

36 (c) Strengthening intergovernmental and multiparty collaboration and enhancing collaboration
 37 between governments and stakeholders on an ongoing basis.

38 (d) Developing strategies to enhance collaboration among governmental bodies and the general
 39 public.

40 (e) Assessing ways the [statewide] map of wildfire risk described in ORS 477.490 may inform
 41 development of building codes and land use laws, rules and decisions, in a regionally appropriate
 42 manner.

43 (f) Assessing the application of defensible space requirements to vineyards, crops and other
 44 cultivated vegetation.

45 (g) Reviewing Department of Land Conservation and Development findings and recommendations

1 in the report required by section 11, chapter 592, Oregon Laws 2021, and making additional recom-
 2 mendations related to potential updates to the statewide land use planning program, local compre-
 3 hensive plans and zoning codes to incorporate wildfire risk maps and minimize wildfire risk to
 4 people, public and private property, businesses, infrastructure and natural resources.

5 (3) The council is not a decision-making body but instead is established to provide advice, as-
 6 sistance, perspective, ideas and recommendations to the State Wildfire Programs Director.

7 (4) The President of the Senate and Speaker of the House of Representatives shall jointly ap-
 8 point 19 members to the council as follows:

9 (a) One member who represents county government.

10 (b) One member who is a land use planning director of a county that is wholly or partially
 11 within the wildland-urban interface.

12 (c) One member who represents city government.

13 (d) One member who is a land use planning director of a city that is wholly or partially within
 14 the wildland-urban interface.

15 (e) One member who represents fire chiefs and has experience with managing, fighting or pre-
 16 venting fire within the wildland-urban interface.

17 (f) One member who represents fire marshals and has experience with managing, fighting or
 18 preventing fire within the wildland-urban interface.

19 (g) One member who represents firefighters and has experience with managing, fighting or pre-
 20 venting fire within the wildland-urban interface.

21 (h) One member who represents rural residential property owners whose property is wholly or
 22 partially within the wildland-urban interface.

23 (i) One member who represents farming property owners whose property is wholly or partially
 24 within the wildland-urban interface.

25 (j) One member who represents ranching property owners whose property is wholly or partially
 26 within the wildland-urban interface.

27 (k) One member who represents forestland owners whose property is wholly or partially within
 28 the wildland-urban interface.

29 (L) One member who represents federally recognized Indian tribes with land wholly or partially
 30 within the wildland-urban interface.

31 (m) One member who represents a utility company.

32 (n) One member who represents environmental interests.

33 (o) One member who represents forest resiliency interests.

34 (p) One member who represents state or regional land use planning organizations.

35 (q) One member who represents land and housing development interests or real estate industry
 36 interests.

37 (r) One member who represents public health professionals.

38 (s) One member who represents the environmental justice community.

39 (5) The presiding officers shall provide public notice of an opportunity for interested parties to
 40 submit names of interest for appointment to the council.

41 (6) At least 30 days before appointing a member, the presiding officers shall consult in good faith
 42 with the minority leaders of the Senate and House of Representatives on the appointment.

43 (7) The term of service for each member is four years.

44 (8) The members are eligible for reappointment.

45 (9) The council shall elect a chairperson and vice chairperson to serve for one-year terms.

1 (10) The members shall serve on the council as volunteers and are not entitled to reimbursement
2 for expenses.

3 (11) The Department of Consumer and Business Services, Department of Land Conservation and
4 Development, office of the State Fire Marshal and State Forestry Department shall each provide 15
5 percent of the time of a full-time equivalent employee to:

- 6 (a) Cooperatively staff the council.
- 7 (b) Attend council meetings as informational resources.
- 8 (c) Assist with drafting reports at the request of the council.
- 9 (d) Support the work of the State Wildfire Programs Director.

10 (12) The Oregon State University Extension Service shall designate a person to serve as staff
11 for the council.

12 (13) Each October the council shall submit a report to the Governor and appropriate committees
13 or interim committees of the Legislative Assembly that describes progress on implementing program
14 activities related to defensible space, building codes, land use and community emergency
15 preparedness and that recommends improvements.

16 **SECTION 8.** ORS 477.027 is amended to read:

17 477.027. (1) By rule, considering national best practices, the State Board of Forestry shall es-
18 tablish:

- 19 (a) A definition of “wildland-urban interface.”
- 20 (b) Criteria by which the wildland-urban interface must be identified and classified.
- 21 (2) The criteria:
 - 22 (a) Must recognize differences across the state in fire hazard, fire risk and structural charac-
23 teristics within the wildland-urban interface.
 - 24 (b) May not exclude a category of land from inclusion in the wildland-urban interface.
 - 25 (3) Based on the criteria, the board shall establish five classes of wildland-urban interface.
 - 26 (4) The classes must be integrated into the [*comprehensive statewide*] map described in ORS
27 477.490.

28
29 **TIMELINE FOR DEVELOPING MAP**

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31 **SECTION 9.** Section 7a, chapter 592, Oregon Laws 2021, is amended to read:

32 **Sec. 7a.** *[(1) On or before December 31, 2021, the State Forestry Department shall report to an*
33 *interim committee of the Legislative Assembly related to wildfire, in the manner provided in ORS*
34 *192.245, to the State Wildfire Programs Director and to the Wildlife Programs Advisory Council on the*
35 *progress of the department and Oregon State University in complying with the requirements of section*
36 *7 of this 2021 Act.]*

37 *[(2) On or before June 30, 2022, the department and university must finish all actions required of*
38 *the department and university by section 7 of this 2021 Act.]*

39 **(1) The State Forestry Department shall develop the map described in ORS 477.490 only**
40 **after:**

41 **(a) The Department of Land Conservation and Development has reported on the recom-**
42 **ended changes as required by section 11, chapter 592, Oregon Laws 2021; and**

43 **(b) The Department of Consumer and Business Services has adopted wildfire hazard**
44 **mitigation building code standards and amended section R327 of the Oregon Residential Spe-**
45 **cialty Code, as required by ORS 455.612.**

1 [(3)] (2) Notwithstanding any contrary provision of law, the State Board of Forestry may adopt
2 temporary rules to help ensure the requirements described in subsection [(2)] (1) of this section are
3 met.

4 **SECTION 10.** Section 8c, chapter 592, Oregon Laws 2021, is amended to read:

5 **Sec. 8c.** The State Fire Marshal shall establish minimum defensible space requirements for
6 wildfire risk reduction on lands in areas identified on the map described in [*section 7 of this 2021*
7 *Act on or before December 31, 2022*] **ORS 477.490 after the map is developed, as described in**
8 **section 7a, chapter 592, Oregon Laws 2021.**

9 **SECTION 11.** **The unit captions used in this 2023 Act are provided only for the conven-**
10 **ience of the reader and do not become part of the statutory law of this state or express any**
11 **legislative intent in the enactment of this 2023 Act.**

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