

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2984

By COMMITTEE ON HOUSING AND DEVELOPMENT

May 15

1 On page 3 of the printed A-engrossed bill, after line 21, insert:

2 **“SECTION 1a. If House Bill 3442 becomes law, section 1 of this 2023 Act (amending ORS**
3 **197.308) is repealed and ORS 197.308, as amended by section 4, chapter 47, Oregon Laws 2022,**
4 **and section 1, chapter ___, Oregon Laws 2023 (Enrolled House Bill 3442), is amended to read:**

5 “197.308. (1) As used in this section[,]:

6 “(a) ‘Affordable housing’ means residential property:

7 “[a] (A) In which:

8 “[A] (i) Each unit on the property is made available to own or rent to families with incomes
9 of 80 percent or less of the area median income [*as determined by the Oregon Housing Stability*
10 *Council based on information from the United States Department of Housing and Urban*
11 *Development*]; or

12 “[B] (ii) The average of all units on the property is made available to families with incomes
13 of 60 percent or less of the area median income; and

14 “[b] (B) Whose affordability [*is enforceable*], including **affordability under a covenant** as de-
15 scribed in ORS 456.270 to 456.295, **is enforceable** for a duration of no less than 30 years.

16 “(b) ‘Area median income’ means **the median income for the metropolitan statistical area**
17 **in which housing is located as determined by the Housing and Community Services Depart-**
18 **ment and adjusted for household size based on information from the United States Depart-**
19 **ment of Housing and Urban Development.**

20 “(2) A local government shall allow affordable housing[, *and may not require a zone change or*
21 *conditional use permit for affordable housing,*] if the proposed affordable housing is on property that
22 is:

23 “(a) Owned by:

24 “(A) A public body, as defined in ORS 174.109; or

25 “(B) A nonprofit corporation that is organized as a religious corporation; or

26 “(b) Zoned:

27 “(A) For commercial uses;

28 “(B) To allow religious assembly; or

29 “(C) As public lands.

30 “(3) **A local government shall allow the conversion of a building or a portion of a building**
31 **from a commercial use to a residential use.**

32 “[3] (4) [*Subsection (2)*] **Subsections (2) and (3)** of this section:

33 “[a] *Does not apply to the development of housing not within an urban growth boundary.*]

34 “(a) **Prohibit the local government from requiring a zone change or conditional use per-**
35 **mit before allowing the use.**

1 “(b) [Does] **Do** not trigger any requirement that a local government consider or update an
2 analysis as required by a statewide planning goal relating to economic development.

3 “[*c*] *Applies on property zoned to allow for industrial uses only if the property is:*]

4 “[*A*] *Publicly owned;*]

5 “[*B*] *Adjacent to lands zoned for residential uses or schools; and]*

6 “[*C*] *Not specifically designated for heavy industrial uses.*]

7 “[*d*] (c) Except as provided in paragraph [*e*] (d) of this subsection, [*does*] **do** not apply on
8 lands where the local government determines that:

9 “(A) The development on the property cannot be adequately served by water, sewer, storm water
10 drainage or streets, or will not be adequately served at the time that development on the lot is
11 complete;

12 “(B) The property contains a slope of 25 percent or greater;

13 “(C) The property is within a 100-year floodplain; or

14 “(D) The development of the property is constrained by land use regulations based on statewide
15 land use planning goals relating to:

16 “(i) Natural disasters and hazards; or

17 “(ii) Natural resources, including air, water, land or natural areas, but not including open spaces
18 or historic resources.

19 “[*e*] (d) [Does] **Do** apply to property described in paragraph [*d*](*C*) (c)(C) and (D)(i) of this
20 subsection if more than 60 percent of the lands within the urban growth boundary that the property
21 is within are located within a tsunami inundation zone or if more than 30 percent of the lands within
22 the urban growth boundary that the property is within are located within a 100-year floodplain.

23 “(5) **The development of housing under subsection (2) of this section may occur only:**

24 “(a) **Within an urban growth boundary; and**

25 “(b) **On lands zoned to allow for industrial uses only if the property is:**

26 “(A) **Publicly owned;**

27 “(B) **Adjacent to lands zoned for residential uses or schools; and**

28 “(C) **Not specifically designated for heavy industrial uses.**

29 “(6) **The development of housing under subsection (3) of this section:**

30 “(a) **Applies only within an urban growth boundary of a city with a population of 10,000**
31 **or greater;**

32 “(b) **May not occur on lands zoned to allow industrial uses;**

33 “(c) **May require the payment of a system development charge as defined in ORS 223.299**
34 **only if:**

35 “(A) **The charge is calculated pursuant to a specific adopted policy for commercial to**
36 **residential conversions adopted on or before December 31, 2023; or**

37 “(B) **The charge is for water or wastewater and includes an offset for at least 100 percent**
38 **of the water or wastewater system development charges paid when the building was ori-**
39 **ginally constructed; and**

40 “(d) **May not be subject to enforcement of any land use regulation that establishes a**
41 **minimum number of parking spaces that is greater than the lesser of:**

42 “(A) **The amount that may be required for the existing commercial use; or**

43 “(B) **The amount that may be required in lands zoned for residential uses that would al-**
44 **low the converted development.**

45 “[*4*] (7) The development of housing allowed under subsection [*3*](*e*) (4)(d) of this section may

1 only occur:

2 “(a) Within an urban growth boundary located no more than 10 miles from the Pacific Ocean;

3 “(b) In areas that require compliance with minimum federal regulations under the National
4 Flood Insurance Program or with local floodplain development regulations adopted by the applicable
5 local government, provided that the local regulations are equal to or more stringent than the mini-
6 mum federal regulations;

7 “(c) In locations that do not include floodways or other areas with higher risks of greater water
8 velocity and debris flow;

9 “(d) In communities with emergency response, evacuation and post-disaster plans that have been
10 updated for the housing development; and

11 “(e) In areas that are not public parks.

12 “[5] **(8)** A local government may prohibit affordable housing or require a zone change or con-
13 ditional use permit to develop affordable housing in areas described in subsection [(3)(e)] **(4)(d)** of
14 this section.

15 “[6] **(9)** A local government shall approve an application at an authorized density level and
16 authorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at
17 the greater of:

18 “(a) Any local density bonus for affordable housing; or

19 “(b) Without consideration of any local density bonus for affordable housing:

20 “(A) For property with existing maximum density of 16 or fewer units per acre, 200 percent of
21 the existing density and 12 additional feet;

22 “(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer
23 units per acre, 150 percent of the existing density and 24 additional feet; or

24 “(C) For property with existing maximum density of 46 or more units per acre, 125 percent of
25 the existing density and 36 additional feet.

26 “[7)(a)] **(10)(a)** Subsection [(6)] **(9)** of this section does not apply to housing allowed under sub-
27 section (2) of this section in areas that are not zoned for residential uses.

28 “(b) A local government may reduce the density or height of the density bonus allowed under
29 subsection [(6)] **(9)** of this section as necessary to address a health, safety or habitability issue, in-
30 cluding fire safety, or to comply with a protective measure adopted pursuant to a statewide land
31 use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings sup-
32 ported by substantial evidence demonstrating the necessity of this reduction.”.

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