

Requested by Representative GAMBA

**PROPOSED AMENDMENTS TO
HOUSE BILL 3414**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest
2 of the line and line 3 and insert “amending ORS 197.320, 197.335, 197.843 and
3 455.770; and declaring an emergency.”.

4 Delete lines 6 through 14 and insert:

5 **“SECTION 2. (1) This section applies only to:**

6 **“(a) An application for a limited land use decision or building per-**
7 **mit;**

8 **“(b) Development of multifamily housing, mixed-use residential de-**
9 **velopment or middle housing, as defined in ORS 197.758, on lands zoned**
10 **for residential or mixed-use residential uses;**

11 **“(c) Development within an urban growth boundary, not including**
12 **lands that:**

13 **“(A) Were added within an urban growth boundary after January**
14 **1, 2018; and**

15 **“(B) Have not been annexed by a city;**

16 **“(d) Applications requesting no more than five distinct adjustments**
17 **under subsection (2) of this section, where each adjustment to a de-**
18 **velopment standard described in subsection (2)(a) to (h) of this section**
19 **and each design standard described in subsection (2)(a), (b) or (i)(A)**
20 **to (E) of this section is considered a distinct adjustment;**

21 **“(e) Applications for uses that are allowed outright and whose res-**

1 **idential components are subject to clear and objective standards; and**

2 **“(f) Adjustments that may be resolved through an existing admin-**
3 **istrative process of the local government that allows for flexibility in**
4 **addressing development standards for residential development.**

5 **“(2) A local government shall grant an adjustment to the following**
6 **development standards:**

7 **“(a) Design standards that apply to portions of a multi-family resi-**
8 **dential building or the residential units of a mixed-use building above**
9 **the ground floor and not within a district with a historic designation;**

10 **“(b) For two or three story buildings not within an area designated**
11 **by a city as a climate friendly area under a rule of the Land Conser-**
12 **vation and Development Commission, design standards and architec-**
13 **tural treatments on facades not along a public street frontage;**

14 **“(c) Side and rear setbacks, provided that the setbacks still comply**
15 **with utility siting, middle housing siting and building code require-**
16 **ments;**

17 **“(d) The amount of landscaped area, for a reduction of up to 25**
18 **percent, provided that stormwater management requirements and tree**
19 **codes are met and that the tree canopy is not impacted;**

20 **“(e) Parking minimums, for reductions down to no less than one**
21 **parking space per unit;**

22 **“(f) Minimum lot size, for up to a 10 percent reduction;**

23 **“(g) Minimum lot widths and depths, for up to a 20 percent re-**
24 **duction;**

25 **“(h) The location of bike parking within a residential building; or**

26 **“(i) Design standards that regulate the following physical charac-**
27 **teristics of middle housing:**

28 **“(A) Facade materials, color and pattern;**

29 **“(B) Roof forms and materials;**

30 **“(C) Entry and garage door materials and patterns;**

1 **“(D) Window material and design; or**

2 **“(E) Minimum window size or total window area, for up to a 30**
3 **percent reduction.**

4 **“(3) To qualify for an adjustment under this section, the application**
5 **must demonstrate:**

6 **“(a) How the intent of the adjusted standard is being met or miti-**
7 **gated; and**

8 **“(b)(A) That the adjustment will reduce development times;**

9 **“(B) That the adjustment will increase the number of housing units**
10 **within the application;**

11 **“(C) That all of the units are subject to an affordable housing**
12 **covenant making them affordable to moderate income households as**
13 **described in ORS 456.270 for a minimum of 30 years; or**

14 **“(D) That at least 20 percent of the units are subject to an afford-**
15 **able housing covenant making them affordable to low income house-**
16 **holds as described in ORS 456.270 for a minimum of 60 years.**

17 **“(4) An application for an adjustment under this section must re-**
18 **ceive a final decision on or before the development application decision**
19 **and within the timelines imposed by ORS 197.311, 215.416 and 227.175.**

20 **“(5) Within 30 days after receiving a complete application, the local**
21 **government shall inform the applicant whether any adjustment re-**
22 **quested by the application under this section satisfies the criteria un-**
23 **der subsections (1) to (3) of this section. If a determination is made**
24 **that the application does not satisfy such criteria, the local govern-**
25 **ment shall allow an applicant 30 days to submit additional evidence for**
26 **evaluation under this subsection.**

27 **“(6) Notwithstanding ORS 197.830, a final decision on a request for**
28 **adjustments made under this section may be appealed only by the ap-**
29 **plicant.**

30 **“SECTION 2a. Section 2 of this 2023 Act is repealed on January 2,**

1 **2032.”.**

2 In line 24, delete “including by” and insert “through activities that in-
3 clude”.

4 On page 2, delete lines 19 through 45.

5 On page 3, delete line 1 and insert:

6 **“SECTION 4. (1) The Housing Accountability and Production Office**
7 **established under section 3 of this 2023 Act shall establish a form or**
8 **format through which the office receives allegations of local**
9 **governments’ violations of housing laws only from residential devel-**
10 **opers.**

11 **“(2) The office shall investigate suspected violations of housing laws**
12 **or violations credibly alleged under subsection (1) of this section, un-**
13 **less the residential developer has filed a notice of appeal with the Land**
14 **Use Board of Appeals or has initiated private litigation regarding any**
15 **aspect of the application decision that was alleged to have been the**
16 **subject of the housing law violation.**

17 **“(3) If the office has a reasonable basis to conclude that a violation**
18 **has been committed, the office shall deliver written warning notice to**
19 **the local government specifying the violation and any authority under**
20 **this section that the office intends to invoke if the violation continues**
21 **or is not remedied. The notice may include an invitation to address**
22 **the suspected violation through mediation, the execution of a volun-**
23 **tary compliance agreement or the adoption of suitable models devel-**
24 **oped by the office under section 3 (3)(b) of this 2023 Act.**

25 **“(4) No earlier than 60 days after a warning notice is delivered un-**
26 **der subsection (3) of this section, the office may:**

27 **“(a) Request an enforcement order under ORS 197.320 (14) without**
28 **first complying with ORS 197.319 (1) and (2). Notwithstanding ORS**
29 **183.635 (2) and 197.328 (1), a request under this paragraph must be as-**
30 **signed to an administrative law judge appointed under ORS 183.635**

1 unless the Land Conservation and Development Commission has pre-
2 viously appointed a hearing officer or a pool of hearing officers to re-
3 view petitions filed under this section.

4 “(b) Seek a court order against a local government as described
5 under ORS 455.160 (3) without being adversely affected or serving the
6 demand as described in ORS 455.160 (2).

7 “(c) Notwithstanding ORS 197.090 (2)(b) to (e), participate in and
8 seek review of a matter under ORS 197.090 (2)(a) that pertains to
9 housing laws without the notice or consent of the commission. No less
10 than once every two years, the office shall report to the commission
11 on the matters in which the office participated under this paragraph.

12 “(d) Except regarding matters under the exclusive jurisdiction of
13 the Land Use Board of Appeals, apply to any circuit court for an order
14 compelling compliance with any housing law. If the court finds that
15 the defendant is not complying with a housing law, the court may
16 grant an injunction requiring compliance.

17 “(5) The office shall send notice to any complainant under sub-
18 section (1) of this section when the office:

19 “(a) Takes any action under subsection (3) or (4) of this section; or

20 “(b) Has determined that it will not take further actions or make
21 further investigations.

22 “(6) The actions authorized of the office under this section are in
23 addition to and may be exercised in conjunction with any other in-
24 vestigative or enforcement authority that may be exercised by the
25 Department of Land Conservation and Development, the Land Con-
26 servation and Development Commission or the Department of Con-
27 sumer and Business Services.

28 “(7) Nothing in this section:

29 “(a) Amends the jurisdiction of the Land Use Board of Appeals or
30 a circuit court;

1 “(b) Creates a new cause of action; or

2 “(c) Tolls or extends the statute of limitations for any claim or
3 deadline for any appeal or other action, except as provided in sub-
4 section (8) of this section.

5 “(8) Notwithstanding ORS 197.830 (9), a notice of intent to appeal a
6 land use decision under ORS 197.830 may be filed up to 21 days after
7 a complainant receives a notice under subsection (5) of this section,
8 provided that the allegation was filed under subsection (1) of this sec-
9 tion within 14 days following the decision.

10 “SECTION 4a. Section 4 of this 2023 Act applies only to violations
11 of housing laws occurring on or after April 1, 2024.”.

12 On page 7, delete lines 4 through 25 and insert:

13 “SECTION 9. ORS 197.843 is amended to read:

14 “197.843. (1) The Land Use Board of Appeals shall award attorney fees to
15 *[an applicant whose application is only for the development of affordable*
16 *housing, as defined in ORS 197.308, or publicly supported housing, as defined*
17 *in ORS 456.250]* a **person whose application includes the development**
18 **of needed housing, as defined in section 23, chapter 13, Oregon Laws**
19 **2023 (Enrolled House Bill 2001), and any local government that ap-**
20 **proved a quasi-judicial land use decision**, if the board affirms a quasi-
21 judicial land use decision approving the application or reverses a
22 quasi-judicial land use decision denying the application.

23 “(2) A *[party who was]* **person** awarded attorney fees under this section
24 or ORS 197.850 shall repay the fees plus any interest from the time of the
25 judgment if the property upon which the fees are based is developed for a
26 use other than *[affordable]* **the proposed** housing.

27 “(3) As used in this section[:],

28 “*[(a) ‘Applicant’ includes:]*

29 “*[(A) An applicant with a funding reservation agreement with a public*
30 *funder for the purpose of developing publicly supported housing;]*

1 “[B] A housing authority, as defined in ORS 456.005;]

2 “[C] A qualified housing sponsor, as defined in ORS 456.548;]

3 “[D] A religious nonprofit corporation;]

4 “[E] A public benefit nonprofit corporation whose primary purpose is the
5 development of affordable housing; and]

6 “[F] A local government that approved the application of an applicant de-
7 scribed in this paragraph.]

8 “[b] ‘attorney fees’ includes prelitigation legal expenses, including pre-
9 paring the application and supporting the application in local land use
10 hearings or proceedings.

11 **“SECTION 10. The amendments to ORS 197.843 by section 9 of this**
12 **2023 Act apply to decisions for which a notice of intent to appeal under**
13 **ORS 197.830 is filed on or after January 1, 2024.**

14 **“SECTION 11. (1) Sections 2 and 3 of this 2023 Act and the amend-**
15 **ments to ORS 197.320, 197.335, 197.843 and 455.770 by sections 6 to 9 of**
16 **this 2023 Act become operative on January 1, 2024.**

17 **“(2) Section 4 of this 2023 Act becomes operative on April 1, 2024.**

18 **“(3) The Department of Land Conservation and Development and**
19 **the Department of Consumer and Business Services may take any**
20 **action before the operative dates specified in subsections (1) and (2)**
21 **of this section that is necessary for the departments to exercise, on**
22 **and after the operative dates specified in subsections (1) and (2) of this**
23 **section, all of the duties, functions and powers conferred on the de-**
24 **partments by sections 2 and 3 of this 2023 Act and the amendments to**
25 **ORS 197.320, 197.335, 197.843 and 455.770 by sections 6 to 9 of this 2023**
26 **Act.**

27 **“SECTION 12. In addition to and not in lieu of any other appropri-**
28 **ation, there is appropriated to the Department of Land Conservation**
29 **and Development, for the biennium beginning July 1, 2023, out of the**
30 **General Fund:**

1 “(1) The amount of \$___ to perform the duties of the Housing Ac-
2 countability and Production Office under sections 2 to 4 of this 2023
3 Act.

4 “(2) The amount of \$___ to provide:

5 “(a) On or before February 1, 2024, technical assistance and grants
6 to local governments that proactively acknowledge local housing laws
7 that need to be updated in order to comply with state requirements;
8 and

9 “(b) On and after April 1, 2024, technical assistance and grants to
10 assist local governments with the implementation of voluntary com-
11 pliance agreements as described in section 4 (3) of this 2023 Act.

12 SECTION 13. This 2023 Act being necessary for the immediate
13 preservation of the public peace, health and safety, an emergency is
14 declared to exist, and this 2023 Act takes effect July 1, 2023.”.

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