

Requested by SENATE COMMITTEE ON HOUSING AND DEVELOPMENT

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
A-ENGROSSED HOUSE BILL 2984**

1 On page 2 of the printed A-engrossed bill, after line 21, insert:

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3 **Act (amending ORS 197.308) is repealed and ORS 197.308, as amended**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

6 “197.308. (1) As used in this section[,]:

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

8 **“[(a)] (A) In which:**

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

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

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

18 **“(b) ‘Area median income’ means the median income for the met-**
19 **ropolitan statistical area in which housing is located as determined**
20 **by the Housing and Community Services Department and adjusted for**
21 **household size based on information from the United States Depart-**

1 **ment of Housing and Urban Development.**

2 “(2) A local government shall allow affordable housing[, *and may not re-*
3 *quire a zone change or conditional use permit for affordable housing,*] if the
4 proposed affordable housing is on property that is:

5 “(a) Owned by:

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

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

8 or

9 “(b) Zoned:

10 “(A) For commercial uses;

11 “(B) To allow religious assembly; or

12 “(C) As public lands.

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

15 “[~~(3)~~] (4) [*Subsection (2)*] **Subsections (2) and (3)** of this section:

16 “[*(a) Does not apply to the development of housing not within an urban*
17 *growth boundary.*]

18 **“(a) Prohibit the local government from requiring a zone change**
19 **or conditional use permit before allowing the use.**

20 “(b) [*Does*] **Do** not trigger any requirement that a local government con-
21 sider or update an analysis as required by a statewide planning goal relating
22 to economic development.

23 “[*(c) Applies on property zoned to allow for industrial uses only if the*
24 *property is:*]

25 “[*(A) Publicly owned;*]

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

27 “[*(C) Not specifically designated for heavy industrial uses.*]

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

30 “(A) The development on the property cannot be adequately served by

1 water, sewer, storm water drainage or streets, or will not be adequately
2 served at the time that development on the lot is complete;

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

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

5 “(D) The development of the property is constrained by land use regu-
6 lations based on statewide land use planning goals relating to:

7 “(i) Natural disasters and hazards; or

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

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

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

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

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

21 “(A) **Publicly owned;**

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

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

24 “(6) **The development of housing under subsection (3) of this sec-**
25 **tion:**

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

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

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

1 “(A) The charge is calculated pursuant to a specific adopted policy
2 for commercial to residential conversions adopted on or before De-
3 cember 31, 2023; or

4 “(B) The charge is for water or wastewater and includes an offset
5 for at least 100 percent of the water or wastewater system development
6 charges paid when the building was originally constructed; and

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

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

12 “(B) The amount that may be required in lands zoned for residential
13 uses that would allow the converted development.

14 “[(4)] (7) The development of housing allowed under subsection [(3)(e)]
15 (4)(d) of this section may only occur:

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

18 “(b) In areas that require compliance with minimum federal regulations
19 under the National Flood Insurance Program or with local floodplain devel-
20 opment regulations adopted by the applicable local government, provided
21 that the local regulations are equal to or more stringent than the minimum
22 federal regulations;

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

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

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

28 “[(5)] (8) A local government may prohibit affordable housing or require
29 a zone change or conditional use permit to develop affordable housing in
30 areas described in subsection [(3)(e)] (4)(d) of this section.

1 “[6] **(9)** A local government shall approve an application at an author-
2 ized density level and authorized height level, as defined in ORS 227.175 (4),
3 for the development of affordable housing, at the greater of:

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

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

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

9 “(B) For property with existing maximum density of 17 or more units per
10 acre and 45 or fewer units per acre, 150 percent of the existing density and
11 24 additional feet; or

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

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

17 “(b) A local government may reduce the density or height of the density
18 bonus allowed under subsection [(6)] **(9)** of this section as necessary to ad-
19 dress a health, safety or habitability issue, including fire safety, or to comply
20 with a protective measure adopted pursuant to a statewide land use planning
21 goal. Notwithstanding ORS 197.350, the local government must adopt
22 findings supported by substantial evidence demonstrating the necessity of
23 this reduction.”.

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