



*Protecting Our Natural Heritage
From the Coast to the Cascades*

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February 21, 2023

TO: House Committee on Agricultural, Land Use,
Natural Resources

FROM: Lauri Segel, LandWatch Lane County

SUBJECT: HB 2192

Chair Helm and Member of the Committee:

Thank you for the opportunity to provide a summary that explains why HB 2192 is unnecessary, does not right any wrongs, real or perceived, and should not move forward.

A review of the legislative history that precedes this Bill shows this to be part of a piecemeal effort to disable SB 100, even though M37 and M49 were enacted to supposedly right the wrongs resulting from adoption of SB 100 in 1973.

In 2013, HB 2746 was adopted. It was sponsored by Representative Unger, a farmer, and was supported by farmers statewide. It enacted a provision for a 5-year look-back period, allowing dwellings in the EFU zone to be replaced that were effectively no longer habitable if property taxes had been assessed for the past 5 years.

Several years later an Oregon Supreme Court decision upheld the interpretation from the lower Courts about the five-year look-back. The Courts held that the language in the 2013 Bill allowed approval of a replacement dwelling in the EFU zone even if the existing dwelling wasn't habitable, if there was evidence the uninhabitable dwelling had been taxed for at least five years preceding the date of the application.

In 2019, prior to the Supreme Court issuing its decision, HB 3024 was introduced, sponsored by Representative Zika on behalf of Oregonians in Action. Farmers from around the State testified in opposition to the Bill, which eliminated any timeframe for a habitable dwelling in order to qualify a replacement dwelling in the EFU zone. In the end, Senator Dembrow made an agreement with OIA for a 1973 date and a sunset provision to take effect on January 2, 2024. The sunset provision was meant as a safeguard; in Senator Dembrow's words, the new language was "***just for a limited time to allow those that want it to do so", referring to those who wanted an EFU replacement dwelling without having any evidence of a habitable dwelling. That bill was adopted, and the 2013 and 2019 bills became ORS 215.291

The current Bill, HB 2192, goes far beyond its obvious intention, amending ORS 215.291 to include forestland in provisions adopted to apply temporarily in the EFU zone, although the idea of conflating criteria in the two zones has no reasonable justification.

Even worse, however, is proposed SECTION 2, establishing "**Section 4, chapter 440, Oregon Laws 2019, is repealed.**" It is unlikely any

members of this committee or any other committee would realize the implications of SECTION 2 without assistance. Please do not let Mr. Hunnicutt convince you that repealing Section 4, Chapter 440, Oregon Laws 2019 is without effect.

This provision would undo the sunset provision in the 2019 Bill that Senator Dembrow purposely included as a safeguard against potential negative impacts. Yet here we see an attempt to undo those safeguards without any explanation without any concern for potential negative impacts.

There is no necessity for HB 2192, nor do we know why it has been proposed. Regardless of the reason behind HB 2192, LandWatch Lane County respectfully requests that this Committee, after considering the legislative history and testimony from others, oppose this bill.

Thank you.