

SB 1537 -4 STAFF MEASURE SUMMARY

Senate Committee On Housing and Development

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/8, 2/13

WHAT THE MEASURE DOES:

The measure establishes the Housing Accountability and Production Office, and it directs the Office to assist local governments with housing production. The measure requires local government to grant land use regulation and design adjustments in certain circumstances, and to process, as limited land use decisions, certain housing applications. It allows permit applicants to opt in to amended housing regulations, and it expands statute to award attorney fees to prevailing applicants for any needed housing in a Land Use Board of Appeals review. Funds, including the Housing Project Revolving Loan Fund, are appropriated to support housing production. The measure allows cities to undergo either a one-time urban growth boundary amendment or a land swap in specified conditions.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

Detailed Summary:

Housing Accountability and Production Office (Sections 1 – 7)

Allocates an unspecified amount to establish the Housing Accountability and Production Office (HAPO), and directs HAPO to prioritize assisting local governments in voluntarily undertaking changes to comply with housing laws and reduction of barriers to housing development. Allocates \$10 million for HAPO to provide technical assistance grants to local governments. Directs HAPO to investigate housing law violations, and describes the process for enforcement orders. The provisions become operative July 1, 2025, and only apply to violations of housing laws occurring on or after that date.

Opting In to Amended Housing Regulations (Sections 8 – 9)

Allows applicants for permits, limited land use decisions, and zone changes establishing residential use to request their application be reviewed using standards and criteria that become operative while their application is pending. Prohibits cities and counties from requiring duplicative fees or redundant review processes.

Attorney Fees for Needed Housing Challenges (Sections 10 – 11)

Expands existing statute that awards attorney fees to applicants for the development of affordable housing if they prevail in a Land Use Board of Appeals review, to award attorney fees to applicants for the development of any needed housing and to any local government approving the land use decision. Applies provisions to decisions for which a notice of intent to appeal is filed on or after January 1, 2025.

Financial Assistance Supporting Housing Production (Sections 12 – 23)

Allocates \$5 million to establish the Housing Infrastructure Support Fund (HISF), administered by the Oregon Business Development Department (OBD), to provide capacity and support for infrastructure planning to municipalities for the production of housing units. Repeals the fund January 2, 2027. Allocates funds for grants and loans for the development of housing with specified density and affordability requirements:

- \$200 million to the Housing Infrastructure Project Account (HIPA), administered by the OBD, for the Oregon Infrastructure Finance Authority (OIFA) for specified infrastructure and site development costs supporting the

SB 1537 -4 STAFF MEASURE SUMMARY

development of planned housing subject to an affordability covenant

- \$10 million to the Brownfields Redevelopment Fund, for the OBD to provide moneys for site cleanup and mitigation for properties zoned for residential or mixed-use development, for low- and moderate-income housing projects
- \$40 million to Oregon Housing and Community Services (OHCS) for low- and moderate-income housing projects
- \$20 million to OHCS for low- and moderate-income housing projects which use only electricity for cooking, unit heating, and water heating

Housing Project Revolving Loans (Sections 24 – 36)

Allocates \$200 million to establish the Housing Project Revolving Loan Fund. Directs OHCS to develop a program to make loans to local jurisdictions, which in turn awards grants to developers to cover eligible costs, including system development charges, predevelopment costs, construction costs, and land write-downs. Requires these costs be part of the development of new housing or commercial to residential conversions, for households with 120 percent of the area median income or less. Assesses an annual fee and property tax exemption and notes the exemption in the property's tax records, and limits the fee timeframe to no longer than ten years. Requires the program be operational no later than June 30, 2025.

Housing Land Use Adjustments (Sections 37 – 43)

Specifies conditions and timelines under which local governments must grant adjustments to existing land use regulation and design and development standards. Allows local governments to apply to HAPO for an exemption to adjustments, subject to certain conditions. Directs the Department of Land Conservation and Development to provide a report on the residential development produced through approvals of adjustments on or before September 15th of each even-numbered year, and include feedback from the League of Oregon Cities. Places operative date on these provisions of January 1, 2025; repeals them on January 2, 2032.

Limited Land Use Decisions (Sections 44 – 47)

Directs local governments to process, as limited land use decisions, applications for housing development within urban growth boundaries (UGBs) requesting partitions and other property boundary changes; site plan review; nonconforming use cases; or adjustments to land use regulations. Includes exceptions for applications already processed, and decisions involving a HAPO approved hardship or timeline exemption. Places operative date on these provisions of January 1, 2025; repeals them January 2, 2032.

One-Time Site Additions to Urban Growth Boundaries (Sections 48 – 60)

Allows cities outside Metro to add sites to their UGB in specified conditions, and allows cities within Metro to petition Metro to add a site within the Metro UGB. Requires cities demonstrate need for the site UGB amendment using specified criteria, provide public notice and opportunity for public participation, and adopt a conceptual plan subject to the specified requirements. Allows cities outside Metro to perform a land swap instead, in which the residential site being added to the UGB replaces a residential site roughly equivalent in size that is being removed from the UGB. Subjects the UGB amendments and land swaps allowed by the Act to DLCD review, and requires cities to report development progress of these sites to DLCD every two years until January 1, 2033, or until the development is complete. Repeals these provisions on January 2, 2033.

ISSUES DISCUSSED:

- Definitions of housing affordability
- Exclusion of Metro from the land swap option
- Applicability of attorney fee changes
- Funding for essential services as cities grow

EFFECT OF AMENDMENT:

-4 The amendment modifies the bill language for clarity and defines “affordable housing” as it relates to multiple provisions. It adjusts timelines and allows cities and counties to require fees and resubmittals under specified circumstances, for housing developers opting in to amended housing regulations. It allows, in specified circumstances, for the Oregon Infrastructure Finance Authority to provide financial assistance to cities, counties, or tribal councils for sanitary or drinking water infrastructure supporting housing production. It adds infrastructure costs as an eligible cost for the Housing Project Revolving Loan Fund. It permits intergovernmental agreements to enumerate responsibilities with respect to specified funds. It establishes the Housing Site Readiness Fund and allocates \$10 million to it, in place of the Brownfields Redevelopment Fund. It modifies definitions and exemptions for mandatory adjustments to housing standards. It specifies that provisions regarding limited land use decisions do not apply to lands outside incorporated cities. It modifies requirements for demonstration of need for one-time urban growth boundary additions, and it modifies land swap provision requirements.

Detailed Summary:

Housing Accountability and Production Office (Sections 1 – 7)

Requires the Housing Accountability and Production Office (HAPO) to develop procedures for evaluating the credibility of housing law violations. Allows the Land Use Board of Appeals (LUBA) to provide technical assistance to local governments unrelated to the resolution of complaints involving LUBA appeals or private litigation. Allows local government to make land use decisions affected by enforcement orders prior to notifying affected applicants. Allows a hearings officer of enforcement orders to prepare an order of dismissal. Expands allowable actions that local governments may take to address the basis for an enforcement order. Clarifies moneys are appropriated only to the Department of Land Conservation and Development for administration of the HAPO fund.

Opting In to Amended Housing Regulations (Sections 8 – 9)

Requires applicants requesting to opt in to amended housing regulations do so for the development of housing, rather than for residential use in general. Restarts application timelines for the purposes of this Act if a review under different standards is requested. Permits cities and counties to deny an opt in request if they issued a public notice of the application, or an opt in request was previously made. Permits cities and counties to require the applicant pay a fee to cover costs incurred by the request, and to require a new application or duplicative information if the request changes other application information or additional context for the change is needed.

Attorney Fees for Needed Housing Challenges (Sections 10 – 11)

Clarifies conditions under which attorney fees are awarded in Land Use Board of Appeals cases involving housing. Clarifies “attorney fees” also include the cost of processing an application.

Financial Assistance Supporting Housing Production (Sections 12 – 23)

Permits the Oregon Infrastructure Finance Authority (OIFA) to provide financial assistance to cities, counties, or tribal councils for sanitary or drinking water infrastructure projects primarily supporting residential housing. Requires applicants to demonstrate need as specified. Includes requirements for projects related to construction, and allows project-related engineering and design costs incurred after an application to be reimbursed. Permits OIFA to prioritize applications as specified. Requires at least 25 percent of funds be used to support cities or tribes with populations under 30,000, and at least 25 percent of funds be used to support those with populations from 30,000 to 100,000.

Establishes the Housing Site Readiness Fund. Extends the sunset of Oregon Business Development Department support for infrastructure planning, and the Housing Infrastructure Support Fund, from January 2, 2027, to January 2, 2030. Clarifies housing density calculations, affordability period requirements, and allowance of “very

low” income housing for specified funds. Modifies population tiers for specified funds.

Housing Project Revolving Loans (Sections 24 – 36)

Adds infrastructure costs as an eligible cost. Includes administrative costs in the loan amount. Establishes that Oregon Housing and Community Services (OHCS) sets a period of affordability for eligible housing projects for at least as long as the term of the loan. Allows the term of the loan to exceed a period of 10 years if agreed upon by the sponsoring jurisdiction and OHCS, if needed in order to fully repay the loan principal and fees. Includes operating taxes and local option taxes in the calculations to determine the grant, tax exemption, and fee amounts. Increases the allowable amount of reimbursement to sponsoring jurisdictions for administrative costs of the grant program to 5 percent of loan proceeds. Limits expenditures from the fund, for the first 2 years of program operation, to 2/3 of the money appropriated to the fund.

Housing Land Use Adjustments (Sections 37 – 43)

Clarifies that adjustments do not include deviations from land use regulations or requirements related to safety; wildlife protection; fire code implementation; air quality, surface, ground, or stormwater requirements; or changes beyond those explicitly requested and allowed. Allows HAPO to establish conditions requiring a city to continue demonstrating it meets the qualification criteria for an exemption, and allows HAPO to revoke the exemption if the city fails to comply with conditions of approval. Allows cities to apply for exemptions to DLCDC before these provisions’ operational date of January 1, 2025. Allows DLCDC to perform any action HAPO would take in this regard, and makes these decisions and actions binding on HAPO.

Limited Land Use Decisions (Sections 44 – 47)

Requires local governments to process applications for housing development within an urban growth boundary as either a limited land use decision or ministerial decision, in specified circumstances. Sets a timeline for HAPO review of exemption or time extension requests. Clarifies these provisions do not apply to lands outside a city or Metro urban unincorporated land.

One-Time Site Additions to Urban Growth Boundaries (Sections 48 – 60)

Clarifies that Metro must adopt urban growth boundary (UGB) amendments for petitions deemed compliant, rather than for all received. Clarifies that demonstration of need also applies to Metro lands adjacent to cities. Provides options to demonstrate need for affordable housing through: 1) having a greater percentage of extremely cost-burdened households than the state average based on data from the Comprehensive Housing Affordability Strategy from the United States Department of Housing and Urban Development, or 2) OHCS equity indicator data showing at least 25 percent of renter households in the city are severely rent burdened.

Requires air, water, and land resource quality to be protected as they relate to statewide land use planning goals. Requires affordable units be dispersed throughout the site. Requires a binding agreement with each owner within the site and applicable providers that the site will receive urban services, for additions of 15 net residential acres or less that do not require a conceptual plan. Modifies land designations for sites removed from a UGB in a land exchange. Requires that sites added in land exchanges be adjacent to the UGB; be in an urban reserve land, nonresource land, or subject to land use goal exceptions; and that the city has not already adopted an amendment or land exchange under this Act.

BACKGROUND:

On January 10, 2023, Governor Kotek issued Executive Order 23-04, which established an annual housing production target of 36,000 homes in Oregon, and which established the Governor’s Housing Production Advisory Council (HPAC), tasked with providing recommendations to achieve the housing production target. The HPAC’s January 2024 [report](#) included recommendations on one-time urban growth boundary (UGB) amendments, funding for infrastructure and affordable housing, and adjustments to land use standards, are incorporated into

SB 1537 -4 STAFF MEASURE SUMMARY

Senate Bill 1537.

Executive Order 23-04 and the draft HPAC report cite a housing shortage as detailed by the Department of Land Conservation and Development (DLCD), who state in their December 2022 Oregon Housing Needs Analysis (OHNA) Legislative Recommendations [Report](#) that Oregon needs to develop more than 550,000 new housing units across income levels to accommodate 20 years of population growth, and to account for current underproduction and the lack of units for people experiencing homelessness. DLCD notes that of these needed housing units, 20 percent (nearly 112,000 units) must be affordable to moderate income households earning between 80 and 120 percent of area median income, while 10 percent (nearly 56,000 units) be affordable to low-income households earning between 60 and 80 percent of area median income.