

**HB 4037 A -A11, -A12, -A13, -A16, -A17 STAFF MEASURE  
SUMMARY**

**Senate Committee On Housing and Development**

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**Meeting Dates:** 2/26

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**WHAT THE MEASURE DOES:**

The omnibus measure addresses a range of housing-related issues, including clarifying eligibility for city and county housing project funding programs and modifying the long-term affordability enforcement of publicly supported housing projects. It broadens the enforcement and penalty authority of Oregon Housing and Community Services (OHCS) for noncompliance within the city and county housing project funding program. It defines which nonprofits may qualify as community development financial institutions for purposes of a manufactured dwelling park loan program and directs specific agreements to allow grant funds to be used for moderate-income housing projects. The measure broadens the Land Conservation and Development Commission's enforcement authority. The measure expands the category of one- and two-family dwellings eligible for exemption from mandatory plan review by removing the restriction to conventional light frame construction. The measure also modifies local government review procedures for housing development applications subject to the clear and objective standards requirement. It creates new provisions governing residential tenancies affected by a natural disaster. It restructures and expands the priority order for the acquisition of surplus state-owned real property. The measure takes effect on the 91st day after adjournment sine die.

Detailed Summary:

**City and County Housing Project Funding Programs (Sections 1–11)**

- Creates a new statutory definition of “eligible housing project” that clarifies the types of for-sale and rental housing that qualify and standardizes affordability requirements
- Authorizes OHCS to establish terms under which affordability restrictions may terminate upon foreclosure by a permitted mortgage lender
- Provides that awards may not exceed the amount calculated under Oregon Revised Statutes (ORS) 307.216 and may reimburse eligible costs incurred up to 12 months before site approval
- Requires project grants and project loans to be secured by a recorded affordable housing covenant
- Authorizes transfer and assumption of project funding under terms established by OHCS or the sponsoring jurisdiction
- Allows OHCS to authorize subordination of the affordability covenant if the sponsoring jurisdiction has pledged its full faith and credit and an alternative revenue source acceptable to the department
- Prohibits eligible housing project property located in an urban renewal area from receiving the property tax exemption under ORS 307.227
- Specifies that the rejection of an application and the amount of a project funding award are not appealable, but allows reapplication within program deadlines
- Requires a sponsoring jurisdiction, upon entering into a project funding agreement, to adopt an ordinance or resolution detailing the project, including whether the property will receive a property tax exemption, and establishes an exception to this requirement when authority has been delegated, the jurisdiction has agreed to repay the agency loan, and no property tax exemption will be granted
- Expands OHCS's authority to compromise, adjust, modify, subordinate, or release agency loans and related agreements to maximize repayment and compliance with affordability requirements
- Clarifies that agency loans remain outstanding until repaid in full, and may be repaid at any time; upon full repayment, the sponsoring jurisdiction may release or modify affordability restrictions applicable to the

property

- Clarifies that the property tax exemption applies to eligible housing project properties granted exemption under ORS 307.227 pursuant to a project funding agreement
- Makes a developer liable for immediate payment of outstanding fee obligations if the developer fails to comply with affordability requirements or restrictions
- Authorizes penalties of up to 20 percent of the project funding amount for willful misrepresentation or failure to report material facts either to obtain project funding or in connection with compliance requirements

**Community Development Financial Institutions (Sections 12–13)**

- Directs OHCS, the Department of Administrative Services (DAS), or the Department of Justice to amend the grant agreement with the Network for Oregon Affordable Housing (NOAH) to expand permissible uses of the grant and grant proceeds to housing projects with an affordability term of at least five years, sold or rented as a primary residence for households with incomes more than 60 percent and up to 120 percent of the area median income, and receive financing of not more than \$1,000,000 per eligible project

**Land Conservation and Development Commission Orders (Section 15)**

- Expands and clarifies the circumstances under which the Land Conservation and Development Commission may issue an enforcement order requiring a local government, state agency, or special district to take corrective action, and removes the limitation that enforcement applies only to cities with a population of 10,000 or greater

**Building Plan Review (Section 16)**

- Removes the limitation that the exemption from building plan review applies only to one- and two-family dwellings of conventional light frame construction

**Review Of Housing Applications (Section 17)**

- Clarifies that local approval standards may not discourage needed housing through unreasonable cost or delay and that qualifying standards may be contained in a comprehensive plan, land use regulation, or ordinance that adopts a model ordinance adopted by the Land Conservation and Development Commission
- Adds new procedural limitations for applications for local governments: providing notice only to owners of record within 100 feet of the subject property, or within 500 feet for developments of 20 units or more; not requiring a public hearing before making a decision; and allowing a local appeal only to the applicant

**Residential Tenancies Impacted by Disasters (Sections 20–21)**

- Establishes statutory rules for termination, rent obligations, return of deposits, and tenant access following destruction of a dwelling unit by a natural disaster, and limits tenant rent liability while the unit is posted as unsafe or unlawful to occupy

**Use of State Property for Housing (Sections 22–24)**

- Requires DAS, to the extent consistent with trust responsibilities, to provide an opportunity to acquire surplus property in a specified order of priority:
  - Places other state agencies first in priority
  - Adds lessees of the land as a priority category
  - Reorders and expands priority categories to include Indian tribes, political subdivisions, nonprofit organizations, housing authorities, and other people
  - Adds a separate priority opportunity for specified entities to acquire property for the development of housing for households earning up to 120 percent of the area median income
  - Adds an additional priority opportunity for those same entities to acquire property to develop housing without regard to affordability
  - Removes the prior requirement that housing developed under the preference be limited to households earning no more than 80 percent of the median family income and replaces it with a 120 percent area

median income standard

- Clarifies that, upon sale or transfer, DAS may require a political subdivision to use the property for a public purpose and prohibit resale to a private purchaser
- Clarifies that a state agency may transfer, convey, donate, exchange, or lease real property to an eligible Indian tribe, notwithstanding certain statutory disposition procedures

**Technical Fixes (Sections 25–29)**

- Modifies the timeline for final plat approval following tentative approval of a middle housing land division
- Directs the Department of Land Conservation and Development to report to the legislature by July 1, 2028, on the feasibility and advisability of providing safe harbor protections for cities that use the commission’s model system development charges or otherwise incentivizing their use

Fiscal impact: Minimal fiscal impact

Revenue impact: No revenue impact

HOUSE VOTE: 40 Ayes; 0 Nays

**ISSUES DISCUSSED:**

**EFFECT OF AMENDMENT:**

-A11 The amendment changes requirements within the section of Oregon law stating that a local government shall allow affordable housing, as defined, on lands zoned for commercial uses. The amendment provides that if an application is submitted for an affordable housing development within a planned mixed-use development and that application would have the effect of reducing lands available for commercial use within the planned development by more than 80 percent, the applicant must amend the planned development to allow an additional area not smaller than the proposed housing development. Defines "planned mixed-use development."

-A12 The amendment allows a county with a population density of less than 30 people per square mile to rezone an area up to 50 acres for the development of housing. It requires this land to be outside of an urban growth boundary, to be sized in such a way that all parcels created by the division meet minimum lot requirements, and be zoned for the development of housing meeting certain density and dwelling size requirements. It states that the new houses cannot be used for vacation occupancy.

The amendment requires any property owner, as a requirement of approval for development, to sign a deed restriction acknowledging the protected rights of farm, forest, and rangeland practices in the area.

The amendment requires each participating county to report annually to the Department of Land Conservation and Development on information as requested by the Department to evaluate the effectiveness of the program.

Sunsets these provisions on January 2, 2034.

-A13 The amendment directs the Land Conservation and Development Commission (LCDC) to amend its rules relating to the prioritization of lands added to an urban reserve in order to allow local governments to assign lower priority to lands for which the future provision of urban services is not reasonable or cost effective due to terrain or other physical constraints of the land. The amendment directs LCDC to adopt these rules on or before January 1, 2027, and without prior notice, hearing, or advisory meeting.

-A16 The amendment changes requirements for the by-right development of affordable housing in a planned, mixed-use development, and directs the Land Conservation and Development Commission (LCDC) to amend its rules relating to the ability of local governments to prioritize lands for urban reserves.

Detailed summary:

Directs LCDC to amend its rules relating to the prioritization of lands added to an urban reserve to allow local governments to assign lower priority to lands for which the future provision of urban services is not reasonable or cost effective due to terrain or other physical constraints, including built constraints. Directs LCDC to adopt these rules on or before January 1, 2027, without an advisory committee.

Changes requirements within the section of Oregon law stating that a local government shall allow the development of affordable housing, as defined, on lands zoned for commercial use. Provides that if an application is submitted for an affordable housing development within a planned mixed-use development and that application would have the effect of reducing lands available for commercial use within the planned development by more than 80 percent, the applicant must amend the planned development to allow an additional area not smaller than the proposed housing development. Defines "planned mixed-use development."

-A17 The amendment updates the -A16 amendment such that if an affordable housing development has the effect of reducing lands available for commercial use within the planned development by more than 20 percent, rather than 80 percent, the applicant must allow the additional area.

**BACKGROUND:**

Oregon law authorizes cities, counties, and other sponsoring jurisdictions to establish project funding programs that provide grants and loans to support the development of affordable and middle-income housing (ORS 307.214). Local governments adopting these programs must establish eligibility requirements, application processes, and review procedures for developers seeking funding (ORS 307.214 and ORS 307.216). Applications must demonstrate project affordability and financial feasibility and are subject to review by both the sponsoring jurisdiction and OHCS prior to final approval. The department administers a statewide program that provides interest-free agency loans to local governments to finance project grants and loans and allows limited reimbursement for administrative costs (ORS 307.221). Once funding is approved, jurisdictions must enter into project funding agreements with developers, adopt local laws describing funded projects, and distribute loan proceeds, while coordinating with county tax officials regarding property tax treatment and exemptions (ORS 307.225). State law also establishes repayment and enforcement provisions, including repayment schedules tied to project completion, early repayment requirements for noncompliance, and penalties for fraud or misrepresentation that may result in liens and state collection actions (ORS 307.229 and ORS 307.233).

Oregon land use statutes generally require local governments to regulate housing development using clear and objective standards that do not discourage needed housing through unreasonable cost or delay, while preserving local authority to regulate development standards and offer alternative approval processes that comply with statewide planning goals (ORS 197A.400). Recent statutory provisions also limit the application of certain residential design standards to housing development in specified circumstances. Separately, state law establishes a policy directing state agencies to hold only the real property necessary for official business and encourages the sale or lease of surplus state-owned property to private parties, generally providing priority purchase opportunities to existing lessees, adjacent landowners, and regional residents (ORS 270.010).