

SENATE AMENDMENTS TO SENATE BILL 1521

By COMMITTEE ON HOUSING AND DEVELOPMENT

February 18

1 On page 1 of the printed bill, delete lines 9 through 26 and delete pages 2 through 4.

2 On page 5, delete lines 1 through 4 and insert:

3 **“SECTION 2. (1) As used in this section and section 3 of this 2026 Act:**

4 **“(a) ‘Affordable housing’ means housing that is:**

5 **“(A) Affordable for and made available to rent by households earning 80 percent of the**
6 **area median income or a lower limit as established by the city or county; or**

7 **“(B) Affordable and made available to purchase, by the purchase of shares or units in**
8 **cooperative housing or by other means, based on income restrictions as defined by the city**
9 **or county.**

10 **“(b) ‘Multiunit housing’ means a structure that contains 10 or more dwelling units**
11 **sharing at least one wall, floor or ceiling surface in common with another unit within the**
12 **same structure.**

13 **“(c) ‘Portland MSA’ means the metropolitan statistical area comprising Columbia,**
14 **Clackamas, Multnomah, Washington and Yamhill Counties and cities within those counties.**

15 **“(2) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation, or**
16 **may impose a requirement as a condition for approving an application under ORS 215.427 or**
17 **227.178, that has the effect of establishing the sales or rental price for new multiunit housing**
18 **or that requires new multiunit housing to be designated for sale or rent as affordable hous-**
19 **ing.**

20 **“(3) A regulation or requirement under this section must provide developers with the**
21 **option to pay an in-lieu fee, in an amount determined by the city or county, in exchange for**
22 **providing the requisite number of dwelling units within the multiunit housing to be sold or**
23 **rented at below-market rates.**

24 **“(4) A city or county that adopts or imposes a regulation or requirement described in this**
25 **section may not apply the regulation or requirement to any multiunit housing if, prior to the**
26 **operative date of the regulation or requirement:**

27 **“(a) An application for a permit, as defined in ORS 215.402 or 227.160, has been submitted**
28 **and is deemed complete under ORS 215.416 or 227.178; or**

29 **“(b) A building permit application has been submitted.**

30 **“(5) This section does not restrict a local government from offering incentives, in addi-**
31 **tion to any required by section 3 (1)(a) of this 2026 Act, on a voluntary basis to encourage a**
32 **developer to:**

33 **“(a) Increase the number of affordable dwelling units in a development.**

34 **“(b) Decrease the price of dwelling units in a development, whether or not the units are**
35 **required to be affordable.**

1 “(6) A regulation or requirement adopted or imposed under this section may offer devel-
2 opers one or more of the following incentives to develop affordable housing, in addition to
3 any required by section 3 (1)(a) of this 2026 Act:

4 “(a) Density adjustments.

5 “(b) Expedited service for local permitting processes.

6 “(c) Modification of height, floor area or other site-specific requirements.

7 “(d) Other incentives as determined by the city or county.

8 “(7) This section applies only to multiunit structures with:

9 “(a) Twenty or more dwelling units; and

10 “(b) Ten or more dwelling units if within the Portland MSA, but not within the City of
11 Portland.

12 “(8) This section does not apply to the development of a CCRC, as defined in ORS 101.020,
13 that executes and records a covenant enforceable by the applicable city or county in which
14 the CCRC agrees to operate all units within its structure as a CCRC. Units within a CCRC
15 that are offered or converted into residential units not subject to ORS chapter 101 must
16 comply with regulations or requirements consistent with those applicable to new multiunit
17 housing under this section.

18 “**SECTION 3.** (1) A regulation or requirement that is adopted or imposed under section
19 2 of this 2026 Act within the Portland MSA and is applicable to rental housing is not en-
20 forceable unless:

21 “(a) The regulation or requirement requires the enacting city or county to offer to a
22 developer of multiunit housing that elects not to pay an in-lieu fee pursuant to section 2 (3)
23 of this 2026 Act one or more of the following offsets in an amount totaling at least the ex-
24 pected marginal loss in value for a prototypical multiunit housing by type, as calculated un-
25 der paragraph (b) of this subsection:

26 “(A) Immediate or structured cash payments.

27 “(B) Full or partial exemption from ad valorem property taxes.

28 “(C) Whole or partial waivers or reductions of fees, including impact fees or system de-
29 velopment charges, provided that those fees have been assessed for multiunit housing for at
30 least 30 of the 72 months preceding the date on which the regulation or requirement becomes
31 operative.

32 “(b) Within the previous six years, the governing body of the city or county has adopted
33 by ordinance an economic analysis of the regulation or requirement that calculates the av-
34 erage expected marginal loss in value of a prototypical multiunit housing, by type, that would
35 be expected to result from compliance with the regulation or requirement.

36 “(2) For the purposes of the economic analysis under subsection (1)(b) of this section, a
37 city or county:

38 “(a) May use, for costs and benefits that would accrue over time, including lost rents
39 from below-market homes and multiyear tax abatements, a net present value calculation or
40 a comparison of the current market valuations, or a combination of the two.

41 “(b) May apply a discount rate on future benefits using a 10-year treasury bond rate plus
42 a risk-adjustment spread.

43 “(c) If the city or county is using a risk-adjustment spread or capitalization rate, must
44 use a spread or rate that is informed by data or interviews about current market conditions.

45 “(d) May assume that the loss in value is equal to the net present value or the current

1 market value of the expected change in rent, or a combination of the two.

2 “(e) May segment multiunit housing types by the numbers of bedrooms. If the analysis
3 is for a city that has a population of 75,000 or more, the analysis must also segment the types
4 by at least two geographic areas. Analyses may include segmentation by additional ge-
5 ographic areas or by other relevant factors.

6 “(f) May estimate the loss in value on the basis of housing units or on the basis of square
7 feet.

8 “(g) May select a typical development prototype in the market area.

9 “(h) May structure its economic analysis in any manner.

10 “(3) If a city or county within the Portland MSA, other than the city of Portland, adopts
11 a regulation or requirement that requires maintaining any rental units as affordable housing
12 and provides an offset under subsection (1)(a) of this section in the form of a property tax
13 exemption that is provided over more than one property tax year, the period of the
14 affordability requirement may not be longer than the term of the property tax exemption.

15 “(4) In adopting or applying an economic analysis under subsection (1)(b) of this section
16 or a regulation under section 2 of this 2026 Act based on such an analysis:

17 “(a) The city or county is entitled to deference in its reliance on analyses, calculations,
18 assumptions, factors, consultants, experts or data that may be used by accepted economics
19 industry standards or that may reasonably be relied upon by an economist or analyst with
20 relevant certifications or expertise.

21 “(b) A city or county is not expected to perform an individualized economic analysis for
22 each development.

23 “(c) A developer is not entitled to individual or actual losses in value.

24 “(5) A city’s or county’s adoption of an economic analysis under subsection (1)(b) of this
25 section:

26 “(a) Is not a land use decision.

27 “(b) May be appealed only by writ of review.

28 “(c) May be appealed only within seven days following the adoption of the analysis or the
29 adoption of a regulation or requirement based upon the analysis. If a city or county prevails
30 on an appeal under this paragraph, the city or county is entitled to reasonable attorney fees.

31 “(6) A city or county decision is reviewed as a limited land use decision, subject to sub-
32 section (7) of this section, if the decision:

33 “(a) Applies an economic analysis adopted under subsection (1)(b) of this section or a
34 regulation adopted under section 2 of this 2026 Act based on such an analysis to a develop-
35 ment application;

36 “(b) Calculates the offsets to be offered to a developer; or

37 “(c) Calculates the value of offsets provided to a developer.

38 “(7) Notwithstanding ORS 197.195, for a decision made under subsection (6) of this sec-
39 tion:

40 “(a) Only the applicant may appeal the decision; and

41 “(b) If the city or county prevails on an appeal, the city or county is entitled to reason-
42 able attorney fees.

43 “**SECTION 4.** Section 3 of this 2026 Act is amended to read:

44 “**Sec. 3.** (1) A regulation or requirement that is adopted or imposed under section 2 of this 2026
45 Act within the Portland MSA [*and is applicable to rental housing*] is not enforceable unless:

1 “(a) The regulation or requirement requires the enacting city or county to offer to a developer
2 of multiunit housing that elects not to pay an in-lieu fee pursuant to section 2 (3) of this 2026 Act
3 one or more of the following offsets in an amount totaling at least the expected marginal loss in
4 value for a prototypical multiunit housing by type, as calculated under paragraph (b) of this sub-
5 section:

6 “(A) Immediate or structured cash payments.

7 “(B) Full or partial exemption from ad valorem property taxes.

8 “(C) Whole or partial waivers or reductions of fees, including impact fees or system development
9 charges, provided that those fees have been assessed for multiunit housing for at least 30 of the 72
10 months preceding the date on which the regulation or requirement becomes operative.

11 “(b) Within the previous six years, the governing body of the city or county has adopted by or-
12 dinance an economic analysis of the regulation or requirement that calculates the average expected
13 marginal loss in value of a prototypical multiunit housing, by type, that would be expected to result
14 from compliance with the regulation or requirement.

15 “(2) For the purposes of the economic analysis under subsection (1)(b) of this section, a city or
16 county:

17 “(a) May use, for costs and benefits that would accrue over time, including lost rents from
18 below-market homes and multiyear tax abatements, a net present value calculation or a comparison
19 of the current market valuations, or a combination of the two.

20 “(b) May apply a discount rate on future benefits using a 10-year treasury bond rate plus a
21 risk-adjustment spread.

22 “(c) If the city or county is using a risk-adjustment spread or capitalization rate, must use a
23 spread or rate that is informed by data or interviews about current market conditions.

24 “(d) May assume that the loss in value is equal to the net present value or the current market
25 value of the expected change in rent **or sales price**, or a combination [*of the two*].

26 “(e) May segment multiunit housing types by the numbers of bedrooms. If the analysis is for a
27 city that has a population of 75,000 or more, the analysis must also segment the types by at least
28 two geographic areas. Analyses may include segmentation by additional geographic areas or by
29 other relevant factors.

30 “(f) May estimate the loss in value on the basis of housing units or on the basis of square feet.

31 “(g) May select a typical development prototype in the market area.

32 “(h) May structure its economic analysis in any manner.

33 “(3) If a city or county within the Portland MSA, other than the city of Portland, adopts a
34 regulation or requirement that requires maintaining any rental units as affordable housing and
35 provides an offset under subsection (1)(a) of this section in the form of a property tax exemption that
36 is provided over more than one property tax year, the period of the affordability requirement may
37 not be longer than the term of the property tax exemption.

38 “(4) In adopting or applying an economic analysis under subsection (1)(b) of this section or a
39 regulation under section 2 of this 2026 Act based on such an analysis:

40 “(a) The city or county is entitled to deference in its reliance on analyses, calculations, as-
41 sumptions, factors, consultants, experts or data that may be used by accepted economics industry
42 standards or that may reasonably be relied upon by an economist or analyst with relevant certif-
43 ications or expertise.

44 “(b) A city or county is not expected to perform an individualized economic analysis for each
45 development.

1 “(c) A developer is not entitled to individual or actual losses in value.
2 “(5) A city’s or county’s adoption of an economic analysis under subsection (1)(b) of this section:
3 “(a) Is not a land use decision.
4 “(b) May be appealed only by writ of review.
5 “(c) May be appealed only within seven days following the adoption of the analysis or the
6 adoption of a regulation or requirement based upon the analysis. If a city or county prevails on an
7 appeal under this paragraph, the city or county is entitled to reasonable attorney fees.
8 “(6) A city or county decision is reviewed as a limited land use decision, subject to subsection
9 (7) of this section, if the decision:
10 “(a) Applies an economic analysis adopted under subsection (1)(b) of this section or a regulation
11 adopted under section 2 of this 2026 Act based on such an analysis to a development application;
12 “(b) Calculates the offsets to be offered to a developer; or
13 “(c) Calculates the value of offsets provided to a developer.
14 “(7) Notwithstanding ORS 197.195, for a decision made under subsection (6) of this section:
15 “(a) Only the applicant may appeal the decision; and
16 “(b) If the city or county prevails on an appeal, the city or county is entitled to reasonable at-
17 torney fees.”.
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