

SB 1521-3
(LC 5)
2/5/26 (RLM/ps)

Requested by SENATE COMMITTEE ON HOUSING AND DEVELOPMENT

**PROPOSED AMENDMENTS TO
SENATE BILL 1521**

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

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

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

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

7 **“(A) Affordable for and made available to rent by households earn-**
8 **ing 80 percent of the area median income or a lower limit as estab-**
9 **lished by the city or county; or**

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

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

16 **“(c) ‘Portland MSA’ means the metropolitan statistical area com-**
17 **prising Columbia, Clackamas, Multnomah, Washington and Yamhill**
18 **Counties and cities within those counties.**

19 **“(2) Notwithstanding ORS 91.225, a city or county may adopt a land**
20 **use regulation, or may impose a requirement as a condition for ap-**
21 **proving an application under ORS 215.427 or 227.178, that has the effect**

1 of establishing the sales or rental price for new multiunit housing or
2 that requires new multiunit housing to be designated for sale or rent
3 as affordable housing.

4 “(3) A regulation or requirement under this section must provide
5 developers with the option to pay an in-lieu fee, in an amount deter-
6 mined by the city or county, in exchange for providing the requisite
7 number of dwelling units within the multiunit housing to be sold or
8 rented at below-market rates.

9 “(4) A city or county that adopts or imposes a regulation or re-
10 quirement described in this section may not apply the regulation or
11 requirement to any multiunit housing if, prior to the operative date
12 of the regulation or requirement:

13 “(a) An application for a permit, as defined in ORS 215.402 or
14 227.160, has been submitted and is deemed complete under ORS 215.416
15 or 227.178; or

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

17 “(5) This section does not restrict a local government from offering
18 incentives, in addition to any required by section 3 (1)(a) of this 2026
19 Act, on a voluntary basis to encourage a developer to:

20 “(a) Increase the number of affordable dwelling units in a develop-
21 ment.

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

24 “(6) A regulation or requirement adopted or imposed under this
25 section may offer developers one or more of the following incentives
26 to develop affordable housing, in addition to any required by section
27 3 (1)(a) of this 2026 Act:

28 “(a) Density adjustments.

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

30 “(c) Modification of height, floor area or other site-specific re-

1 requirements.

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

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

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

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

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

14 **“SECTION 3.** (1) A regulation or requirement that is adopted or
15 imposed under section 2 of this 2026 Act within the Portland MSA and
16 is applicable to rental housing is not enforceable unless:

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

23 “(A) Immediate or structured cash payments.

24 “(B) Full or partial exemption from ad valorem property taxes;

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

30 “(b) Within the previous six years, the governing body of the city

1 or county has adopted by ordinance an economic analysis of the reg-
2 ulation or requirement that calculates the average expected marginal
3 loss in value of a prototypical multiunit housing, by type, that would
4 be expected to result from compliance with the regulation or require-
5 ment.

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

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

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

14 “(c) If the city or county is using a risk-adjustment spread or cap-
15 italization rate, must use a spread or rate that is informed by data or
16 interviews about current market conditions.

17 “(d) May assume that the loss in value is equal to the net present
18 value or the current market value of the expected change in rent, or
19 a combination of the two.

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

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

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

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

29 “(3) In adopting or applying an economic analysis under subsection
30 (1)(b) of this section or a regulation under section 2 of this 2026 Act

1 **based on such an analysis:**

2 “(a) The city or county is entitled to deference in its reliance on
3 analyses, calculations, assumptions, factors, consultants, experts or
4 data that may be used by accepted economics industry standards or
5 that may reasonably be relied upon by an economist or analyst with
6 relevant certifications or expertise;

7 “(b) A city or county is not expected to perform an individualized
8 economic analysis for each development;

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

11 “(4) A city's or county's adoption of an economic analysis under
12 subsection (1)(b) of this section:

13 “(a) Is not a land use decision.

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

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

19 “(5) A city or county decision is reviewed as a limited land use de-
20 cision, subject to subsection (6) of this section, if the decision:

21 “(a) Applies an economic analysis adopted under subsection (1)(b)
22 of this section or a regulation adopted under section 2 of this 2026 Act
23 based on such an analysis to a development application;

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

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

26 “(6) Notwithstanding ORS 197.195, for a decision made under sub-
27 section (5) of this section:

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

29 “(b) If the city or county prevails on an appeal, the city or county
30 is entitled to reasonable attorney fees.

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

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

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

11 “(A) Immediate or structured cash payments.

12 “(B) Full or partial exemption from ad valorem property taxes;

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

17 “(b) Within the previous six years, the governing body of the city or
18 county has adopted by ordinance an economic analysis of the regulation or
19 requirement that calculates the average expected marginal loss in value of
20 a prototypical multiunit housing, by type, that would be expected to result
21 from compliance with the regulation or requirement.

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

24 “(a) May use, for costs and benefits that would accrue over time, includ-
25 ing lost rents from below-market homes and multiyear tax abatements, a net
26 present value calculation or a comparison of the current market valuations,
27 or a combination of the two.

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

30 “(c) If the city or county is using a risk-adjustment spread or capitaliza-

1 tion rate, must use a spread or rate that is informed by data or interviews
2 about current market conditions.

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

6 “(e) May segment multiunit housing types by the numbers of bedrooms.
7 If the analysis is for a city that has a population of 75,000 or more, the
8 analysis must also segment the types by at least two geographic areas. An-
9 alyses may include segmentation by additional geographic areas or by other
10 relevant factors.

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

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

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

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

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

23 “(b) A city or county is not expected to perform an individualized eco-
24 nomic analysis for each development;

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

26 “(4) A city’s or county’s adoption of an economic analysis under sub-
27 section (1)(b) of this section:

28 “(a) Is not a land use decision.

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

30 “(c) May be appealed only within seven days following the adoption of the

1 analysis or the adoption of a regulation or requirement based upon the
2 analysis. If a city or county prevails on an appeal under this paragraph, the
3 city or county is entitled to reasonable attorney fees.

4 “(5) A city or county decision is reviewed as a limited land use decision,
5 subject to subsection (6) of this section, if the decision:

6 “(a) Applies an economic analysis adopted under subsection (1)(b) of this
7 section or a regulation adopted under section 2 of this 2026 Act based on
8 such an analysis to a development application;

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

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

11 “(6) Notwithstanding ORS 197.195, for a decision made under subsection
12 (5) of this section:

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

14 “(b) If the city or county prevails on an appeal, the city or county is en-
15 titled to reasonable attorney fees.”.

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