

A-Engrossed
House Bill 3212

Ordered by the House April 20
Including House Amendments dated April 20

Sponsored by COMMITTEE ON RURAL COMMUNITIES, LAND USE, AND WATER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Makes law or rule **solely** for [*restricting*] **purpose of regulating** previously allowed farming practice land use regulation for purposes of certain land use laws.

[*Removes just compensation exemption for land use regulation that reduces fair market value of property and restricts farming practice or forest practice covered by right-to-farm laws.*]

A BILL FOR AN ACT

1
2 Relating to land use; amending ORS 195.300.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 195.300 is amended to read:

5 195.300. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11,
6 chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and
7 sections 2 to 7, chapter 8, Oregon Laws 2010:

8 (1) "Acquisition date" means the date described in ORS 195.328.

9 (2) "Claim" means a written demand for compensation filed under:

10 (a) ORS 195.305, as in effect immediately before December 6, 2007; or

11 (b) ORS 195.305 and 195.310 to 195.314, as in effect on and after December 6, 2007.

12 (3) "Enacted" means enacted, adopted or amended.

13 (4) "Fair market value" means the value of property as determined under ORS 195.332.

14 (5) "Farming practice" has the meaning given that term in ORS 30.930.

15 (6) "Federal law" means:

16 (a) A statute, regulation, order, decree or policy enacted by a federal entity or by a state entity
17 acting under authority delegated by the federal government;

18 (b) A requirement contained in a plan or rule enacted by a compact entity; or

19 (c) A requirement contained in a permit issued by a federal or state agency pursuant to a federal
20 statute or regulation.

21 (7) "File" means to submit a document to a public entity.

22 (8) "Forest practice" has the meaning given that term in ORS 527.620.

23 (9) "Ground water restricted area" means an area designated as a critical ground water area
24 or as a ground water limited area by the Water Resources Department or Water Resources Com-
25 mission before December 6, 2007.

26 (10) "High-value farmland" means:

27 (a) High-value farmland as described in ORS 215.710 that is land in an exclusive farm use zone

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 or a mixed farm and forest zone, except that the dates specified in ORS 215.710 (2), (4) and (6) are
2 December 6, 2007.

3 (b) Land west of U.S. Highway 101 that is composed predominantly of the following soils in Class
4 III or IV or composed predominantly of a combination of the soils described in ORS 215.710 (1) and
5 the following soils:

6 (A) Subclassification IIIw, specifically Ettersburg Silt Loam and Croftland Silty Clay Loam;

7 (B) Subclassification IIIe, specifically Klooqueth Silty Clay Loam and Winchuck Silt Loam; and

8 (C) Subclassification IVw, specifically Huffling Silty Clay Loam.

9 (c) Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June
10 28, 2007, is:

11 (A) Within the place of use for a permit, certificate or decree for the use of water for irrigation
12 issued by the Water Resources Department;

13 (B) Within the boundaries of a district, as defined in ORS 540.505; or

14 (C) Within the boundaries of a diking district formed under ORS chapter 551.

15 (d) Land that contains not less than five acres planted in wine grapes.

16 (e) Land that is in an exclusive farm use zone and that is at an elevation between 200 and 1,000
17 feet above mean sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero
18 and 15 percent, and that is located within:

19 (A) The Southern Oregon viticultural area as described in 27 C.F.R. 9.179;

20 (B) The Umpqua Valley viticultural area as described in 27 C.F.R. 9.89; or

21 (C) The Willamette Valley viticultural area as described in 27 C.F.R. 9.90.

22 (f) Land that is in an exclusive farm use zone and that is no more than 3,000 feet above mean
23 sea level, with an aspect between 67.5 and 292.5 degrees and a slope between zero and 15 percent,
24 and that is located within:

25 (A) The portion of the Columbia Gorge viticultural area as described in 27 C.F.R. 9.178 that is
26 within the State of Oregon;

27 (B) The Rogue Valley viticultural area as described in 27 C.F.R. 9.132;

28 (C) The portion of the Columbia Valley viticultural area as described in 27 C.F.R. 9.74 that is
29 within the State of Oregon;

30 (D) The portion of the Walla Walla Valley viticultural area as described in 27 C.F.R. 9.91 that
31 is within the State of Oregon; or

32 (E) The portion of the Snake River Valley viticultural area as described in 27 C.F.R. 9.208 that
33 is within the State of Oregon.

34 (11) "High-value forestland" means land:

35 (a) That is in a forest zone or a mixed farm and forest zone, that is located in western Oregon
36 and composed predominantly of soils capable of producing more than 120 cubic feet per acre per
37 year of wood fiber and that is capable of producing more than 5,000 cubic feet per year of com-
38 mercial tree species; or

39 (b) That is in a forest zone or a mixed farm and forest zone, that is located in eastern Oregon
40 and composed predominantly of soils capable of producing more than 85 cubic feet per acre per year
41 of wood fiber and that is capable of producing more than 4,000 cubic feet per year of commercial
42 tree species.

43 (12) "Home site approval" means approval of the subdivision or partition of property or approval
44 of the establishment of a dwelling on property.

45 (13) "Just compensation" means:

1 (a) Relief under sections 5 to 11, chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter
2 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010, for land use regulations
3 enacted on or before January 1, 2007; and

4 (b) Relief under ORS 195.310 to 195.314 for land use regulations enacted after January 1, 2007.

5 (14) "Land use regulation" means:

6 (a) A statute that establishes a minimum lot or parcel size;

7 (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter
8 215 that restricts the residential use of private real property;

9 (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that
10 restricts the residential use of private real property zoned for residential use;

11 (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that
12 restricts the residential use of private real property;

13 (e) A provision, enacted or adopted on or after January 1, 2010, of:

14 (A) The Oregon Forest Practices Act;

15 (B) An administrative rule of the State Board of Forestry; [or]

16 (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest prac-
17 tice; **or**

18 **(D) Any law enacted, or rule adopted, solely for the purpose of regulating a farming**
19 **practice that was allowed immediately prior to enactment of the law or adoption of the rule;**

20 (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State
21 Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;

22 (g) An administrative rule or goal of the Land Conservation and Development Commission; or

23 (h) A provision of a Metro functional plan that restricts the residential use of private real
24 property.

25 (15) "Lawfully established unit of land" has the meaning given that term in ORS 92.010.

26 (16) "Lot" has the meaning given that term in ORS 92.010.

27 (17) "Measure 37 permit" means a final decision by Metro, a city or a county to authorize the
28 development, subdivision or partition or other use of property pursuant to a waiver.

29 (18) "Owner" means:

30 (a) The owner of fee title to the property as shown in the deed records of the county where the
31 property is located;

32 (b) The purchaser under a land sale contract, if there is a recorded land sale contract in force
33 for the property; or

34 (c) If the property is owned by the trustee of a revocable trust, the settlor of a revocable trust,
35 except that when the trust becomes irrevocable only the trustee is the owner.

36 (19) "Parcel" has the meaning given that term in ORS 92.010.

37 (20) "Property" means the private real property described in a claim and contiguous private real
38 property that is owned by the same owner, whether or not the contiguous property is described in
39 another claim, and that is not property owned by the federal government, an Indian tribe or a public
40 body, as defined in ORS 192.410.

41 (21) "Protection of public health and safety" means a law, rule, ordinance, order, policy, permit
42 or other governmental authorization that restricts a use of property in order to reduce the risk or
43 consequence of fire, earthquake, landslide, flood, storm, pollution, disease, crime or other natural
44 or human disaster or threat to persons or property including, but not limited to, building and fire
45 codes, health and sanitation regulations, solid or hazardous waste regulations and pollution control

1 regulations.

2 (22) "Public entity" means the state, Metro, a county or a city.

3 (23) "Urban growth boundary" has the meaning given that term in ORS 195.060.

4 (24) "Waive" or "waiver" means an action or decision of a public entity to modify, remove or
5 not apply one or more land use regulations under ORS 195.305 to 195.336 and sections 5 to 11,
6 chapter 424, Oregon Laws 2007, sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections
7 2 to 7, chapter 8, Oregon Laws 2010, or ORS 195.305, as in effect immediately before December 6,
8 2007, to allow the owner to use property for a use permitted when the owner acquired the property.

9 (25) "Zoned for residential use" means zoning that has as its primary purpose single-family res-
10 idential use.

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