

B-Engrossed
House Bill 2997

Ordered by the Senate May 22
Including House Amendments dated April 11 and Senate Amendments
dated May 22

Sponsored by Representative NOBLE; Representative KENY-GUYER (at the request of City of McMinnville Affordable Housing Task Force)

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.

[Authorizes cities with population greater than 30,000 but less than 40,000 within county with population greater than 105,000 but less than 125,000 to impose affordable housing conditions on housing developments.]

[Sunsets January 2, 2023.]

Requires cities and counties to exempt certain CCRCs from requirements to include affordable housing within development.

A BILL FOR AN ACT

Relating to affordable housing conditions on housing developments; amending ORS 197.309.

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

SECTION 1. ORS 197.309 is amended to read:

197.309. (1) As used in this section:

(a) "Affordable housing" means housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built.

(b) "Multifamily structure" means a structure that contains three or more housing units sharing at least one wall, floor or ceiling surface in common with another unit within the same structure.

(2) Except as provided in subsection (3) of this section, a metropolitan service district may not adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a housing unit or residential building lot or parcel, or that requires a housing unit or residential building lot or parcel to be designated for sale or rent to a particular class or group of purchasers or renters.

(3) The provisions of subsection (2) of this section do not limit the authority of a metropolitan service district to:

(a) Adopt or enforce a use regulation, provision or requirement creating or implementing an incentive, contract commitment, density bonus or other voluntary regulation, provision or requirement designed to increase the supply of moderate or lower cost housing units; or

(b) Enter into an affordable housing covenant as provided in ORS 456.270 to 456.295.

(4) Notwithstanding ORS 91.225, a city or county may adopt a land use regulation or functional plan provision, or impose as a condition for approving a permit under ORS 215.427 or 227.178 a requirement, that has the effect of establishing the sales or rental price for a new multifamily structure, or that requires a new multifamily structure to be designated for sale or rent as affordable

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 housing.

2 (5) A regulation, provision or requirement adopted or imposed under subsection (4) of this sec-
3 tion:

4 (a) May not require more than 20 percent of housing units within a multifamily structure to be
5 sold or rented as affordable housing[;].

6 (b) May apply only to multifamily structures containing at least 20 housing units[;].

7 (c) Must provide developers the option to pay an in-lieu fee, in an amount determined by the city
8 or county, in exchange for providing the requisite number of housing units within the multifamily
9 structure to be sold or rented at below-market rates[; and].

10 (d) Must require the city or county to offer a developer of multifamily structures, other than a
11 developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one
12 of the following incentives:

13 (A) Whole or partial fee waivers or reductions.

14 (B) Whole or partial waivers of system development charges or impact fees set by the city or
15 county.

16 (C) Finance-based incentives.

17 (D) Full or partial exemption from ad valorem property taxes on the terms described in this
18 subparagraph. For purposes of any statute granting a full or partial exemption from ad valorem
19 property taxes that uses a definition of “low income” to mean income at or below 60 percent of the
20 area median income and for which the multifamily structure is otherwise eligible, the city or county
21 shall allow the multifamily structure of the developer to qualify using a definition of “low income”
22 to mean income at or below 80 percent of the area median income.

23 **(e) Does not apply to a CCRC, as defined in ORS 101.020, that executes and records a**
24 **covenant with the applicable city or county in which the CCRC agrees to operate all units**
25 **within its structure as a CCRC. Units within a CCRC that are offered or converted into res-**
26 **idential units that are for sale or rent and are not subject to ORS chapter 101 must comply**
27 **with regulations, provisions or requirements adopted by the city or county that are consist-**
28 **ent with those applicable to a new multifamily structure under subsection (3) or (4) of this**
29 **section.**

30 (6) A regulation, provision or requirement adopted or imposed under subsection (4) of this sec-
31 tion may offer developers one or more of the following incentives:

32 (a) Density adjustments.

33 (b) Expedited service for local permitting processes.

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

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

36 (7) Subsection (4) of this section does not restrict the authority of a city or county to offer de-
37 velopers voluntary incentives, including incentives to:

38 (a) Increase the number of affordable housing units in a development.

39 (b) Decrease the sale or rental price of affordable housing units in a development.

40 (c) Build affordable housing units that are affordable to households with incomes equal to or
41 lower than 80 percent of the median family income for the county in which the housing is built.

42 (8)(a) A city or county that adopts or imposes a regulation, provision or requirement described
43 in subsection (4) of this section may not apply the regulation, provision or requirement to any
44 multifamily structure for which an application for a permit, as defined in ORS 215.402 or 227.160,
45 has been submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required,

1 a building permit application has been submitted to the city or county prior to the effective date
2 of the regulation, provision or requirement.

3 (b) If a multifamily structure described in paragraph (a) of this subsection has not been com-
4 pleted within the period required by the permit issued by the city or county, the developer of the
5 multifamily structure shall resubmit an application for a permit, as defined in ORS 215.402 or
6 227.160, as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required, a building
7 permit application under the regulation, provision or requirement adopted by the city or county
8 under subsection (4) of this section.

9 (9)(a) A city or county that adopts or imposes a regulation, provision or requirement under
10 subsection (4) of this section shall adopt and apply only clear and objective standards, conditions
11 and procedures regulating the development of affordable housing units within its jurisdiction. The
12 standards, conditions and procedures may not have the effect, either individually or cumulatively,
13 of discouraging development of affordable housing units through unreasonable cost or delay.

14 (b) Paragraph (a) of this subsection does not apply to:

15 (A) An application or permit for residential development in an area identified in a formally
16 adopted central city plan, or a regional center as defined by Metro, in a city with a population of
17 500,000 or more.

18 (B) An application or permit for residential development in historic areas designated for pro-
19 tection under a land use planning goal protecting historic areas.

20 (c) In addition to an approval process for affordable housing based on clear and objective stan-
21 dards, conditions and procedures as provided in paragraph (a) of this subsection, a city or county
22 may adopt and apply an alternative approval process for applications and permits for residential
23 development based on approval criteria regulating, in whole or in part, appearance or aesthetics
24 that are not clear and objective if:

25 (A) The developer retains the option of proceeding under the approval process that meets the
26 requirements of paragraph (a) of this subsection;

27 (B) The approval criteria for the alternative approval process comply with applicable statewide
28 land use planning goals and rules; and

29 (C) The approval criteria for the alternative approval process authorize a density at or above
30 the density level authorized in the zone under the approval process provided in paragraph (a) of this
31 subsection.

32 (10) If a regulation, provision or requirement adopted or imposed by a city or county under
33 subsection (4) of this section requires that a percentage of housing units in a new multifamily
34 structure be designated as affordable housing, any incentives offered under subsection (5)(d) or (6)
35 of this section shall be related in a manner determined by the city or county to the required per-
36 centage of affordable housing units.

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