

HOUSE AMENDMENTS TO C-ENGROSSED SENATE BILL 1037

By SPECIAL COMMITTEE ON BUDGET

July 29

- 1 On page 2 of the printed C-engrossed bill, line 4, delete the second “or”.
- 2 In line 7, after “first” insert “; or
- 3 “(f) Enacted by a county service district before the effective date of this 2005 Act”.
- 4 In line 26, after “located” delete the rest of the line and line 27.
- 5 In line 28, delete “pensation”.
- 6 Delete line 29 and insert:
- 7 “(7) A public entity may adopt or apply pro”.
- 8 In line 37, after “may” delete the rest of the line.
- 9 In line 38, delete “apply” and insert “waive”.
- 10 In line 41, after the second “statute” insert a period and delete the rest of the line and line 42.
- 11 In line 45, after “statute” insert a period and delete the rest of the line.
- 12 On page 3, line 4, after “county” restore the comma and insert “county service district with a
- 13 master plan described in ORS 451.010 (1)”.
- 14 In line 6, after “county” restore the comma and insert “county service district with a master
- 15 plan described in ORS 451.010 (1)”.
- 16 Delete lines 11 through 20 and insert:
- 17 “(11)(a) If a public entity waives a land use regulation, the waiver is transferable and remains
- 18 effective until:
- 19 “(A) Ten years after the date of the final decision in which the waiver is approved if the claim
- 20 is filed on or before December 2, 2006; or
- 21 “(B) Two years after the date of the final decision in which the waiver is approved if the claim
- 22 is filed after December 2, 2006.
- 23 “(b) When a use allowed pursuant to a waiver is substantially implemented, the use has the legal
- 24 status that would have applied to the use if the use was lawfully established on the date the owner
- 25 who obtained the waiver acquired the property.
- 26 “(c) A conveyance of the property that is subject to a valid waiver does not affect the validity
- 27 of the waiver.
- 28 “(d) The time periods described in paragraph (a) of this subsection are tolled during the time a
- 29 final decision implementing a waiver is on review or remand.
- 30 “(e) As used in this subsection, ‘substantially implemented’ means:
- 31 “(A) For a land division, a final partition or final subdivision plat has been recorded; or
- 32 “(B) For all other uses, the use specified in the waiver has vested.”.
- 33 In line 21, delete “(13)” and insert “(12)”.
- 34 Delete line 22.
- 35 In line 23, delete “(b)” and insert “(a)” and restore the bracketed material and delete

1 “includes”.

2 In line 26, restore “legal” and delete the boldfaced material.

3 In line 28, delete “(c)” and insert “(b)” and restore the bracketed material and delete
4 “includes”.

5 In line 36, delete “(d)” and insert “(c)”.

6 In line 37, delete “(e)” and insert “(d)” and restore the bracketed material and delete
7 “includes” and after “district,” insert “a county service district with a master plan described in ORS
8 451.010 (1).”.

9 After line 38, insert:

10 “(e) ‘Waive’ means to modify, remove or not apply a land use regulation that is a basis for a
11 claim for compensation under this section.”.

12 In line 39, delete “(14)” and insert “(13)”.

13 In line 42, delete “(15)” and insert “(14)”.

14 On page 4, delete line 6 and insert “holders of fee title or the claim must include a signed
15 statement of consent from each holder of fee title who does”.

16 In line 22, delete “city, county or metro-”.

17 In line 23, delete “politan service district” and insert “local public entity”.

18 In line 24, delete “city, county or district” and insert “local public entity”.

19 In line 25, delete “city, county or district” and insert “local public entity”.

20 On page 6, line 34, after “regulation” insert “enacted or enforced by the public entity and”.

21 In line 44, after “regulations” insert “and other laws”.

22 On page 7, line 9, after the period insert “The county clerk shall record promptly in the deed
23 and mortgage records of the county a memorandum of a final decision or a copy of a memorandum
24 of a final decision presented for recording by the public entity making the final decision or an owner
25 of the property that is the subject of the final decision.

26 “(10) The division or use of property pursuant to a final decision of a public entity to waive a
27 land use regulation under section 2, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), must
28 comply with the final decision and land use regulations that have not been waived including, but
29 not limited to, land use regulations:

30 “(a) Enacted by the state that have not been waived if the claim is filed with a city, county or
31 metropolitan service district; or

32 “(b) Adopted by a city, county or metropolitan service district that have not been waived if the
33 claim is filed with the state.

34 “(11) If a land use application based in whole or in part on a waiver of land use regulations
35 under section 2, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), is denied because the ap-
36 plication does not comply with land use regulations that could have been considered during the
37 processing of the claim but were not considered, the applicant for the land use application may file
38 one additional claim with the public entity. The additional claim is limited to consideration of land
39 use regulations that could have been considered as part of the original claim and that are a basis
40 for the denial of the land use application.”.

41 In line 45, after “brief” insert “and the opening brief of a person who intervenes in support of
42 the petitioner”.

43 On page 8, line 21, after “procedures” insert “in a manner that prejudiced the substantial rights
44 of a party to the proceeding”.

45 On page 9, after line 27, insert:

1 **“SECTION 7a. As used in sections 2 to 7a of this 2005 Act:**
2 **“(1) ‘Family member’ has the meaning given that term in section 2, chapter 1, Oregon**
3 **Laws 2005 (Ballot Measure 37 (2004)).**
4 **“(2) ‘Land use regulation’ has the meaning given that term in section 2, chapter 1,**
5 **Oregon Laws 2005 (Ballot Measure 37 (2004)).**
6 **“(3) ‘Owner’ has the meaning given that term in section 2, chapter 1, Oregon Laws 2005**
7 **(Ballot Measure 37 (2004)).**
8 **“(4) ‘Public entity’ has the meaning given that term in section 2, chapter 1, Oregon Laws**
9 **2005 (Ballot Measure 37 (2004)).**
10 **“(5) ‘Waive’ has the meaning given that term in section 2, chapter 1, Oregon Laws 2005**
11 **(Ballot Measure 37 (2004)).”.**

12 After line 30, insert:

13 **“SECTION 9. (1) Sections 4 to 7 of this 2005 Act and the amendments to chapter 1,**
14 **Oregon Laws 2005 (Ballot Measure 37 (2004)), by section 1 of this 2005 Act apply to claims for**
15 **compensation filed under chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), before, on**
16 **or after the effective date of this 2005 Act.**
17 **“(2) Sections 2 and 3 of this 2005 Act apply to claims for compensation filed under chapter**
18 **1, Oregon Laws 2005 (Ballot Measure 37 (2004)), on or after the effective date of this 2005**
19 **Act.”.**

20 In line 31, delete “9” and insert “10”.

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