

HB 3540-B31
(LC 3823)
5/30/07 (DH/ps)

**PROPOSED AMENDMENTS TO
B-ENGROSSED HOUSE BILL 3540**

1 On page 2 of the printed B-engrossed bill, delete lines 19 through 21 and
2 insert:

3 “(c) Land that is in an exclusive farm use zone or a mixed farm and forest
4 zone and that on the date of adjournment sine die of the 2007 regular session
5 of the Seventy-fourth Legislative Assembly is:

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

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

9 “(C) Within the boundaries of a diking district formed under ORS chapter
10 551.”.

11 Delete lines 41 through 45 and insert:

12 “(11) ‘High-value forestland’ means land:

13 “(a) That is in a forest zone or a mixed farm and forest zone, that is lo-
14 cated in western Oregon and composed predominantly of soils capable of
15 producing more than 120 cubic feet per acre per year of wood fiber and that
16 is capable of producing more than 5,000 cubic feet per year of commercial
17 tree species; or

18 “(b) That is in a forest zone or a mixed farm and forest zone, that is lo-
19 cated in eastern Oregon and composed predominantly of soils capable of
20 producing more than 85 cubic feet per acre per year of wood fiber and that
21 is capable of producing more than 4,000 cubic feet per year of commercial
22 tree species.”.

1 On page 3, delete lines 1 through 3.
2 Delete lines 6 through 10 and insert:
3 “(13) ‘Just compensation’ means:
4 “(a) Relief under sections 5 to 11 of this 2007 Act for land use regulations
5 enacted on or before January 1, 2007; and
6 “(b) Relief under sections 12 to 14 of this 2007 Act for land use regu-
7 lations enacted after January 1, 2007.”.
8 In line 19, after “(e)” insert “A provision of the Oregon Forest Practices
9 Act or”.
10 In line 21, after “(f)” insert “ORS 561.191, a provision of ORS 568.900 to
11 568.933 or”.
12 In line 22, delete the second “or”.
13 In line 24, delete the period and insert “; or
14 “(h) A provision of a Metro functional plan that restricts the residential
15 use of private real property.”.
16 In line 25, delete “a city or” and insert “Metro, a city or a”.
17 In line 44, after the comma insert “Metro,”.
18 On page 4, line 16, delete “revise” and insert “modify”.
19 In line 27, delete “unfairly”.
20 In line 28, delete “as described in section 12 (2) of this 2007 Act”.
21 On page 5, line 28, delete “May 15” and insert “January 1”.
22 In line 29, delete “public” and insert “human”.
23 In line 31, delete “May 15” and insert “January 1”.
24 In line 38, delete “5 to 22” and insert “12 to 14”.
25 In line 44, delete “5 to 22” and insert “12 to 14”.
26 On page 6, restore line 31 and delete “(13)” and insert “(9)”.
27 Restore line 32.
28 Delete lines 33 and 34.
29 Delete line 37 and insert “ON OR BEFORE THE DATE OF
30 ADJOURNMENT SINE DIE OF THE 2007 REGULAR SESSION OF THE

1 SEVENTY-FOURTH LEGISLATIVE ASSEMBLY”.

2 In line 40, delete “before May 15, 2007,” and insert “on or before the date
3 of adjournment sine die of the 2007 regular session of the Seventy-fourth
4 Legislative Assembly”.

5 On page 7, line 10, delete “before May 15, 2007,” and insert “on or before
6 the date of adjournment sine die of the 2007 regular session of the Seventy-
7 fourth Legislative Assembly”.

8 In line 30, delete “information” and insert “form”.

9 On page 8, line 16, delete “obtain” and insert “seek”.

10 In line 20, after “to” insert “the review of”.

11 In line 21, delete “before May 15, 2007,” and insert “on or before the date
12 of adjournment sine die of the 2007 regular session of the Seventy-fourth
13 Legislative Assembly”.

14 In line 43, delete “information” and insert “form”.

15 On page 9, line 21, after “is” insert “equal to or”.

16 In line 22, after “that” delete the rest of the line and insert “may be es-
17 tablished on the property under subsection (2) of this section”.

18 In line 23, delete “Act”.

19 On page 10, line 5, after “of” insert “preparing the claim, including the
20 cost of”.

21 In line 7, delete “or licensed”.

22 In line 21, delete “obtain” and insert “seek”.

23 In line 25, after “to” insert “the review of”.

24 Delete lines 26 through 43 and insert:

25 **“SECTION 8.** (1) No later than 120 days after the effective date of this
26 2007 Act, the Department of Land Conservation and Development shall send
27 notice to all the following claimants that filed a claim for property outside
28 an urban growth boundary:

29 “(a) A claimant whose claim was denied by the state before the effective
30 date of this 2007 Act, but who may become eligible for just compensation

1 because of section 21 (2) of this 2007 Act or any other provision of sections
2 5 to 22 of this 2007 Act;

3 “(b) A claimant whose claim was approved by the state before the effec-
4 tive date of this 2007 Act; and

5 “(c) A claimant whose claim has not been approved or denied by the state
6 before the effective date of this 2007 Act.

7 “(2) The notice required by subsection (1) of this section must:

8 “(a) Explain the claimant’s options if the claimant wishes to subdivide,
9 partition or establish a dwelling on the property under sections 5 to 22 of
10 this 2007 Act;

11 “(b) Identify any information that the claimant must file; and

12 “(c) Provide a form for the claimant’s use.

13 “(3) A claimant must choose whether to proceed under section 6 or 7 of
14 this 2007 Act by filing the form provided by the department within 90 days
15 after the date the department mails the notice and form required under sub-
16 section (1) of this section. In addition, the claimant must file any information
17 required in the notice. If the claimant fails to file the form within 90 days
18 after the date the department mails the notice, the claimant is not entitled
19 to relief under section 6 or 7 of this 2007 Act.”.

20 In line 44, delete “(3)” and insert “(4)”.

21 In line 45, delete “information” and insert “forms” and delete “(2)” and
22 insert “(3)”.

23 On page 11, line 1, delete “information” and insert “form”.

24 In line 2, delete “(2)” and insert “(3)”.

25 In line 10, before the period insert “in the same manner as prescribed by
26 this section for the processing of claims by the department”.

27 In line 12, delete “(4)” and insert “(5)”.

28 In line 14, after the second “of” insert “preparing the claim, including the
29 cost of”.

30 In line 21, after the period delete the rest of the line and lines 22 and 23

1 and insert "If a county is processing the claim, the county may impose a fee
2 for the review of a claim under section 7 of this 2007 Act in an amount that
3 does not exceed the actual and reasonable cost of the review."

4 In line 24, delete "(5)" and insert "(6)".

5 Delete line 25 and insert "with careful review of the claim."

6 In line 29, delete "(6)" and insert "(7)".

7 In line 38, delete "before the effective date" and insert "on or before the
8 date of adjournment sine die of the 2007 regular session of the Seventy-fourth
9 Legislative Assembly".

10 In line 39, delete "of this 2007 Act".

11 In line 45, delete "the city or the" and insert "Metro, a city or a".

12 On page 12, line 2, delete "the city or county" and insert "Metro, a city
13 or a county".

14 In line 10, delete "the city" and insert "Metro, a city".

15 In line 11, delete the first "the" and insert "a".

16 In line 12, delete "the city or county" and insert "Metro, a city or a
17 county".

18 In line 17, delete "the city or the county" and insert "Metro, a city or a
19 county".

20 In line 18, delete "the city or" and insert "Metro, a city or a".

21 In line 22, delete "the city or the county" and insert "Metro, a city or a
22 county".

23 After line 35, insert:

24 "(i) If the property is located within the boundaries of Metro, the land
25 use regulation that is the basis for the claim was enacted after the date the
26 property was included within the boundaries of Metro;"

27 In line 36, delete "(i)" and insert "(j)".

28 In line 38, delete "(j)" and insert "(k)".

29 In line 40, after "is" insert "equal to or".

30 In line 41, after "dwellings" delete the rest of the line and insert "that

1 may be established on the property”.

2 In line 42, delete “wise be entitled to”.

3 On page 13, line 23, after the first “of” insert “preparing the claim, in-
4 cluding the cost of”.

5 In line 25, delete “or licensed”.

6 Delete lines 33 through 38 and insert:

7 “(9) When Metro, a city or a county has issued a final decision author-
8 izing one or more single-family dwellings under this section on the portion
9 of the property located within the urban growth boundary, the claimant may
10 seek other governmental authorizations required by law for that use, and a
11 land use regulation enacted by a public entity that has the effect of prohib-
12 iting the use does not apply to the review of those authorizations, except as
13 provided in section 11 of this 2007 Act. If Metro is reviewing a claim for a
14 property, and a city or a county is reviewing a claim for the same property,
15 Metro and the city or county shall coordinate the review and decisions and
16 may:

17 “(a) Provide that one of the public entities be principally responsible for
18 the review; and

19 “(b) Provide that the decision of each of the public entities is contingent
20 on the decision of the other public entity.”.

21 Delete lines 42 through 45 and insert:

22 “**SECTION 10.** (1) If Metro, a city or a county issued a waiver before the
23 effective date of this 2007 Act for property located, in whole or in part,
24 within an urban growth boundary, the public entity that issued the waiver
25 must review the claim, the record on the claim and the waiver to determine
26 whether the claimant is entitled to relief under section 9 of this 2007 Act.
27 If the public entity that issued the waiver lacks information needed to de-
28 termine whether the claimant is entitled to relief, the public entity shall is-
29 sue a written request to the claimant for the required information. The
30 claimant must file the required information within 90 days after receiving

1 the request. If the claimant does not file the information, the public entity
2 shall review the claim based on the information that is available. The public
3 entity shall complete a tentative review no later than 240 days after the ef-
4 fective date of this 2007 Act. The public entity shall provide written notice
5 to the claimant, the Department of Land Conservation and Development and
6 any other person entitled to notice of the tentative determination as to
7 whether the claimant qualifies for relief under section 9 of this 2007 Act and,
8 if so, the specific number of single-family dwellings that the public entity
9 proposes to authorize. The notice must state that the recipient has 15 days
10 to submit evidence or arguments in response to the tentative determination,
11 after which the public entity shall make a final determination. A public en-
12 tity shall make the final determination under this subsection within 300 days
13 after the effective date of this 2007 Act.

14 “(2) If Metro, a city or a county has not made a final decision before the
15 effective date of this 2007 Act on a claim filed for property located, in whole
16 or in part, within an urban growth boundary, the public entity with which
17 the claim was filed shall send notice to the claimant within 90 days after the
18 effective date of this 2007 Act. The notice must:

19 “(a) Explain that the claimant is entitled to seek relief under section 9
20 of this 2007 Act;

21 “(b) Identify the information that the claimant must file; and

22 “(c) Provide a form for the claimant’s use.

23 “(3) Within 120 days after the date the public entity mails notice under
24 subsection (2) of this section, a claimant must notify the public entity if the
25 claimant intends to continue the claim and must file the information re-
26 quired in the notice. If the claimant fails to file the notice and required in-
27 formation with the public entity within 120 days after the date the public
28 entity mails the notice, the claimant is not entitled to relief under section
29 9 of this 2007 Act.

30 “(4) A public entity that receives a notice from a claimant under sub-

