

# Senate Bill 616

Sponsored by Senator KNOPP (Presession filed.)

## 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 **as introduced**.

Authorizes local government to adopt exception to statewide land use planning goal for use that will create 50 or fewer new full-time jobs for which salary or wage is 400 percent or more of federal poverty guidelines for family of four. Applies to local government that has experienced sustained high unemployment or sustained population decline or has high poverty level. Defines related terms.

## A BILL FOR AN ACT

1  
2 Relating to exceptions to land use planning goals; amending ORS 197.732.

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

4 **SECTION 1.** ORS 197.732 is amended to read:

5 197.732. (1) As used in this section:

6 (a) "Compatible" is not intended as an absolute term meaning no interference or adverse impacts  
7 of any type with adjacent uses.

8 (b) "Exception" means a comprehensive plan provision, including an amendment to an acknowl-  
9 edged comprehensive plan, that:

10 (A) Is applicable to specific properties or situations and does not establish a planning or zoning  
11 policy of general applicability;

12 (B) Does not comply with some or all goal requirements applicable to the subject properties or  
13 situations; and

14 (C) Complies with standards under subsection (2) of this section.

15 (c) "**High poverty level**" means a condition in which at least:

16 (A) **25 percent of the residents of a local government have household income that is be-**  
17 **low the federal poverty guidelines; and**

18 (B) **50 percent of the residents of a local government have household income that is below**  
19 **75 percent of the median household income of residents of this state.**

20 (d) "**Household income**" has the meaning given that term in ORS 316.147.

21 (e) "**Sustained high unemployment**" means a period during which the monthly average  
22 unemployment rate, as determined by the Employment Department, in a local government  
23 is higher than seven percent for at least 24 consecutive months.

24 (f) "**Sustained population decline**" means a decline in the population of a local govern-  
25 ment:

26 (A) **As determined in the most recent federal decennial census taken, compared to the**  
27 **federal decennial census immediately preceding the most recent census; or**

28 (B) **In each of the five preceding calendar years, as determined by the United States**  
29 **Census Bureau or the Portland State University Population Research Center.**

30 (2) **Except as provided in subsection (3) of this section,** a local government may adopt an

**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 exception to a goal if:

2 (a) The land subject to the exception is physically developed to the extent that it is no longer  
3 available for uses allowed by the applicable goal;

4 (b) The land subject to the exception is irrevocably committed as described by Land Conserva-  
5 tion and Development Commission rule to uses not allowed by the applicable goal because existing  
6 adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable;  
7 or

8 (c) The following standards are met:

9 (A) Reasons justify why the state policy embodied in the applicable goals should not apply;

10 (B) Areas that do not require a new exception cannot reasonably accommodate the use;

11 (C) The long term environmental, economic, social and energy consequences resulting from the  
12 use at the proposed site with measures designed to reduce adverse impacts are not significantly  
13 more adverse than would typically result from the same proposal being located in areas requiring  
14 a goal exception other than the proposed site; and

15 (D) The proposed uses are compatible with other adjacent uses or will be so rendered through  
16 measures designed to reduce adverse impacts.

17 **(3)(a) Notwithstanding the standards established in subsection (2) of this section, a local  
18 government may adopt an exception to a goal to accommodate a use that will create 50 or  
19 fewer new full-time jobs for which the salary or wage is 400 percent or more of the federal  
20 poverty guidelines for a family of four.**

21 **(b) The exception described in paragraph (a) of this subsection must be adopted within  
22 \_\_\_ years immediately following a finding by the local government that the local govern-  
23 ment:**

24 **(A) Has experienced sustained high unemployment;**

25 **(B) Has experienced sustained population decline; or**

26 **(C) Has a high poverty level.**

27 **(c) Notwithstanding subsection (5) of this section, the local government approving or  
28 denying a proposed exception under this subsection shall set forth findings of fact required  
29 for an exception under this subsection, but need not set forth a statement of reasons that  
30 demonstrate that the standards of subsection (2) of this section have or have not been met.**

31 [(3)] **(4) The commission shall adopt rules establishing:**

32 (a) That an exception **under subsection (2) of this section** may be adopted to allow a use au-  
33 thorized by a statewide planning goal that cannot comply with the approval standards for that type  
34 of use;

35 (b) Under what circumstances particular reasons may or may not be used to justify an exception  
36 under subsection (2)(c)(A) of this section; and

37 (c) Which uses allowed by the applicable goal must be found impracticable under subsection (2)  
38 of this section.

39 [(4)] **(5) A local government approving or denying a proposed exception shall set forth findings  
40 of fact and a statement of reasons that demonstrate that the standards of subsection (2) of this  
41 section have or have not been met.**

42 [(5)] **(6) Each notice of a public hearing on a proposed exception shall specifically note that a  
43 goal exception is proposed and shall summarize the issues in an understandable manner.**

44 [(6)] **(7) Upon review of a decision approving or denying an exception:**

45 (a) The Land Use Board of Appeals or the commission [*shall be*] **is** bound by any finding of fact

1 for which there is substantial evidence in the record of the local government proceedings resulting  
2 in approval or denial of the exception; **and**

3 (b) **When subsection (2) of this section applies to the exception**, the board upon petition,  
4 or the commission, shall:

5 (A) Determine whether the local government’s findings and reasons demonstrate that the stan-  
6 dards of subsection (2) of this section have or have not been met; and

7 [(c)] (B) [*The board or commission shall*] Adopt a clear statement of reasons that sets forth the  
8 basis for the determination that the standards of subsection (2) of this section have or have not been  
9 met.

10 [(7)] (8) The commission shall by rule establish the standards required to justify an exception  
11 to the definition of “needed housing” authorized by ORS 197.303.

12 [(8)] (9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement  
13 Part) on or before August 9, 1983, continues to be valid and is not subject to this section.

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