

House Bill 3226

Sponsored by Representative BARRETO, Senator HANSELL

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**.

Requires local governments to allow building across lot lines if owner has recorded covenant not to sell separately. Establishes conditions under which covenant may be recorded.

A BILL FOR AN ACT

1
2 Relating to covenants not to sell separately.

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

4 **SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS**
5 **chapter 197.**

6 **SECTION 2. (1) A local government shall permit development of properties under a**
7 **covenant not to sell separately under section 5 of this 2019 Act as a single lot or parcel,**
8 **without regard to any interior property lines for land use planning purposes.**

9 **(2) The consideration of multiple properties as a single lot or parcel under subsection (1)**
10 **of this section:**

11 **(a) Allows for:**

12 **(A) Combining the properties for the purpose of meeting acreage requirements.**

13 **(B) Requiring building setbacks, including setbacks as described in ORS 227.290.**

14 **(C) A building or permanent structure to cross interior property lines.**

15 **(b) May not be used to authorize a dwelling not otherwise authorized on lands zoned for**
16 **forest use or exclusive farm use.**

17 **SECTION 3. (1) A local government may terminate a covenant not to sell separately as**
18 **described in section 5 of this 2019 Act upon an application by an owner for termination that**
19 **is accompanied by a survey map prepared by a registered professional land surveyor and in-**
20 **cludes the location and dimensions of any encroachment that crosses an interior property**
21 **line.**

22 **(2) An application for termination under this section may not be approved unless the**
23 **property lines between the lots or parcels subject to a covenant described in subsection (1)**
24 **of this section are not crossed by encroachments, except if authorized by the local govern-**
25 **ment based on former or concurrent property line adjustment or easement acknowledging**
26 **the encroachment.**

27 **SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS chapter 93.**

28 **SECTION 5. (1) As used in this section, "contiguous properties" means two or more lots**
29 **or parcels that have a common property line, as defined in ORS 92.010, other than a common**
30 **property line formed by:**

31 **(a) A body of water;**

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 **(b) A public right-of-way, including a road or alley; or**
 - 2 **(c) A zoning or political boundary, including a county boundary, a city boundary or an**
 - 3 **urban growth boundary, or a change in allowable uses in zoning.**
 - 4 **(2) An owner of two or more contiguous properties may cause to be recorded a covenant**
 - 5 **not to sell separately in the real property records of the county in which any part of the**
 - 6 **property is located.**
 - 7 **(3) A covenant not to sell separately under this section must contain:**
 - 8 **(a) A covenant, binding on the successors of the property, that the owner of the contig-**
 - 9 **uous properties may only use and convey the encumbered properties together;**
 - 10 **(b) A declaration that each property encumbered by the covenant may not be conveyed**
 - 11 **or encumbered separately;**
 - 12 **(c) A legal description of each property encumbered by the covenant; and**
 - 13 **(d) The acknowledged signature of the owner of the properties.**
 - 14 **(4) A county clerk may not record an instrument from an owner or the owner's succes-**
 - 15 **sor that attempts to voluntarily convey or encumber less than all of the properties affected**
 - 16 **by a covenant not to sell separately, unless recorded after, or together with, an order of a**
 - 17 **local government terminating the covenant under section 3 of this 2019 Act.**
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