

Requested by SENATE COMMITTEE ON HOUSING

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2997**

1 On page 1 of the printed A-engrossed bill, line 2, before the period insert
2 “; creating new provisions; and amending ORS 197.309”.

3 On page 3, after line 23, insert:

4 **“SECTION 3.** ORS 197.309 is amended to read:

5 “197.309. (1) As used in this section:

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

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

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

19 “(3) The provisions of subsection (2) of this section do not limit the au-
20 thority of a metropolitan service district to:

21 “(a) Adopt or enforce a use regulation, provision or requirement creating

1 or implementing an incentive, contract commitment, density bonus or other
2 voluntary regulation, provision or requirement designed to increase the sup-
3 ply of moderate or lower cost housing units; or

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

6 “(4) Notwithstanding ORS 91.225, a city or county may adopt a land use
7 regulation or functional plan provision, or impose as a condition for ap-
8 proving a permit under ORS 215.427 or 227.178 a requirement, that has the
9 effect of establishing the sales or rental price for a new multifamily struc-
10 ture, or that requires a new multifamily structure to be designated for sale
11 or rent as affordable housing.

12 “(5) A regulation, provision or requirement adopted or imposed under
13 subsection (4) of this section:

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

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

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

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

25 “(A) Whole or partial fee waivers or reductions.

26 “(B) Whole or partial waivers of system development charges or impact
27 fees set by the city or county.

28 “(C) Finance-based incentives.

29 “(D) Full or partial exemption from ad valorem property taxes on the
30 terms described in this subparagraph. For purposes of any statute granting

1 a full or partial exemption from ad valorem property taxes that uses a defi-
2 nition of 'low income' to mean income at or below 60 percent of the area
3 median income and for which the multifamily structure is otherwise eligible,
4 the city or county shall allow the multifamily structure of the developer to
5 qualify using a definition of 'low income' to mean income at or below 80
6 percent of the area median income.

7 **“(e) Does not apply to a CCRC, as defined in ORS 101.020, that exe-**
8 **cutes and records a covenant with the applicable city or county in**
9 **which the CCRC agrees to operate all units within its structure as a**
10 **CCRC. Units within a CCRC that are offered or converted into resi-**
11 **dential units that are for sale or rent and are not subject to ORS**
12 **chapter 101 must comply with regulations, provisions or requirements**
13 **adopted by the city or county that are consistent with those applicable**
14 **to a new multifamily structure under subsection (3) or (4) of this sec-**
15 **tion.**

16 “(6) A regulation, provision or requirement adopted or imposed under
17 subsection (4) of this section may offer developers one or more of the fol-
18 lowing incentives:

19 “(a) Density adjustments.

20 “(b) Expedited service for local permitting processes.

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

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

23 “(7) Subsection (4) of this section does not restrict the authority of a city
24 or county to offer developers voluntary incentives, including incentives to:

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

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

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

1 “(8)(a) A city or county that adopts or imposes a regulation, provision or
2 requirement described in subsection (4) of this section may not apply the
3 regulation, provision or requirement to any multifamily structure for which
4 an application for a permit, as defined in ORS 215.402 or 227.160, has been
5 submitted as provided in ORS 215.416 or 227.178 (3), or, if such a permit is
6 not required, a building permit application has been submitted to the city
7 or county prior to the effective date of the regulation, provision or require-
8 ment.

9 “(b) If a multifamily structure described in paragraph (a) of this sub-
10 section has not been completed within the period required by the permit is-
11 sued by the city or county, the developer of the multifamily structure shall
12 resubmit an application for a permit, as defined in ORS 215.402 or 227.160,
13 as provided in ORS 215.416 or 227.178 (3), or, if such a permit is not required,
14 a building permit application under the regulation, provision or requirement
15 adopted by the city or county under subsection (4) of this section.

16 “(9)(a) A city or county that adopts or imposes a regulation, provision or
17 requirement under subsection (4) of this section shall adopt and apply only
18 clear and objective standards, conditions and procedures regulating the de-
19 velopment of affordable housing units within its jurisdiction. The standards,
20 conditions and procedures may not have the effect, either individually or
21 cumulatively, of discouraging development of affordable housing units
22 through unreasonable cost or delay.

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

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

27 “(B) An application or permit for residential development in historic
28 areas designated for protection under a land use planning goal protecting
29 historic areas.

30 “(c) In addition to an approval process for affordable housing based on

1 clear and objective standards, conditions and procedures as provided in par-
2 agraph (a) of this subsection, a city or county may adopt and apply an al-
3 ternative approval process for applications and permits for residential
4 development based on approval criteria regulating, in whole or in part, ap-
5 pearance or aesthetics that are not clear and objective if:

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

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

10 “(C) The approval criteria for the alternative approval process authorize
11 a density at or above the density level authorized in the zone under the ap-
12 proval process provided in paragraph (a) of this subsection.

13 “(10) If a regulation, provision or requirement adopted or imposed by a
14 city or county under subsection (4) of this section requires that a percentage
15 of housing units in a new multifamily structure be designated as affordable
16 housing, any incentives offered under subsection (5)(d) or (6) of this section
17 shall be related in a manner determined by the city or county to the required
18 percentage of affordable housing units.”.

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