

**SB 405 A STAFF MEASURE SUMMARY**

**Carrier:** Sen. Girod, Sen. Prozanski

**Senate Committee On Natural Resources and Wildfire Recovery**

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**Action Date:** 03/10/21  
**Action:** Do pass with amendments. (Printed A-Eng.)  
**Vote:** 4-0-1-0  
**Yeas:** 4 - Golden, Kennemer, Patterson, Prozanski  
**Exc:** 1 - Heard  
**Fiscal:** Has minimal fiscal impact  
**Revenue:** No revenue impact  
**Prepared By:** Laura Kentnesse, LPRO Analyst  
**Meeting Dates:** 2/24, 3/10

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**WHAT THE MEASURE DOES:**

Allows for a nonconforming use to not be considered interrupted or abandoned by a city or county while a federal, state, or local emergency order issued on or after January 1, 2020 temporarily limits or prohibits the use, or the restoration or replacement of the use. Until September 30, 2025 requires cities and counties to allow commencement of restoration or replacement of nonconforming uses that were damaged or destroyed by the September 2020 wildfires, and sunsets that provision January 2, 2026. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Challenges, steps, and timelines to rebuild dwellings post-wildfire
- Definition of restoration or replacement "commencement"
- Possible benefit to setting a permit expiration date
- Deadline extension limited to properties affected by the 2020 wildfires
- Fairness of a nonconforming use being considered interrupted or abandoned due to a pandemic executive order prohibiting that use

**EFFECT OF AMENDMENT:**

Clarifies that the interruption and abandonment modification is limited to federal, state, or local emergency orders issued on or after January 1, 2020. Extends September 30, 2025 county commencement timeline to the restoration or reestablishment of a nonconforming use under city land use regulations as well.

**BACKGROUND:**

A nonconforming use is a building, structure, or land that received the necessary land use approval(s) at the time of establishment or that was established prior to there being any applicable land use provisions, but that use no longer conforms to the regulations of the zoning district in which it is located. Oregon statutes allow for these nonconforming uses to be continued, and allow for their restoration and replacement due to fire, casualty, or natural disaster. However, ORS 215.130 states that the nonconforming use may not be resumed after a period of interruption or abandonment, and that restoration or replacement must be commenced within one year from the occurrence of the fire, casualty, or natural disaster.

Senate Bill 405 A would allow for a nonconforming use to not be considered interrupted or abandoned by a city or county while a federal, state, or local emergency order issued on or after January 1, 2020 temporarily limits or prohibits the use, or the restoration or replacement of the use. The measure would also, until September 30, 2025, require cities and counties to allow commencement of restoration or replacement of nonconforming uses that were damaged or destroyed by the September 2020 wildfires.