

HB 3414 -4 STAFF MEASURE SUMMARY

House Committee On Housing and Homelessness

Prepared By: Claire Adamsick, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/23, 4/4

WHAT THE MEASURE DOES:

Limits conditions under which local government may deny an application for a variance from land use regulations of a residential development within an urban growth boundary and on lands zoned for residential uses, unless denial is necessary for health, safety, or habitability issues, or if the variance request is related to density, height, or floor-area ratio of the development. Directs Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to establish Housing Accountability and Production Office (Office). Describes duties of Office in providing technical assistance for local jurisdictions and housing developers to address barriers to housing production and to investigate and respond to violations of housing laws as defined by Act. Allows Office to take enforcement actions upon a local government's continued violation of housing laws, including actions in conjunction with enforcement measures taken by DLCD or the Land Conservation Development Commission. Requires Office, through third-party contractor, to submit, on or before September 15, 2024, a report to interim committee of Legislative Assembly, identifying improvements to local government approval process in support of increased housing production. Appropriates, for the biennium beginning July 1, 2023, \$1.1 million in General Fund moneys to DLCD and \$1.1 million to DCBS to carry out provisions of Act.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

ISSUES DISCUSSED:

- Costs and delays related to variance review and denial
- Balancing production needs with local government control
- Local government application of clear and objective standards

EFFECT OF AMENDMENT:

-4 Expands criteria for local government denial of application for a variance to modify a land use regulation. Requires local government to notify applicant of incomplete application where appropriate within 30 days of application receipt. Requires local government to notify applicant if application satisfies criteria and allow applicant to submit additional evidence to potentially meet criteria; requires local government to issue final decision approving or denying application for variance within 120 days of receiving complete application. Clarifies final decision may be appealed only by applicant. Allows applicants to obtain attorney fees in prevailing appeals on land use decisions on application for needed housing development before the Land Use Board of Appeals (LUBA); applies to appeals filed on or after January 1, 2024. Allocates, for the biennium beginning July 1, 2023, \$2.2 million to the Department of Land Conservation and Development (DLCD) to carry out provisions of Act, and \$10 million to DLCD to provide technical assistance and grants to local governments to update local housing laws. Declares emergency, effective July 1, 2023.

BACKGROUND:

According to the Department of Land Conservation and Development (DLCD), Oregon needs to develop more than 550,000 new housing units across income levels to accommodate 20 years of population growth and to account for current underproduction and the lack of units for people experiencing homelessness. DLCD estimates that

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approximately 49 percent of this housing will require public subsidy. The department reported in its February 2021 Regional Housing Needs Analysis report that underproduction may be attributed to high land and construction costs, inadequate infrastructure, and limited local government capacity, among other factors. The Oregon Office of Economic Analysis has reported on the longer-term impacts of housing production, including slowing economic growth and potential increased displacement of Oregonians who cannot afford to rent or buy a home.

In 2021, the Legislative Assembly enacted Senate Bill 8, which restricted local governments from denying or limiting the approval of affordable housing applications, subject to certain zoning and property ownership conditions. The measure established density standards and conditions under which local governments must approve affordable housing applications.

House Bill 3414 limits the conditions under which a local government is allowed to deny an application for a land use variance on a residential development within the UGB and on land zoned for residential use. It directs DLCD and the Department of Consumer and Business Services to jointly establish that Housing Accountability and Production Office to provide both technical assistance and take enforcement measures necessary to assist local jurisdictions in identifying and reducing permitting and land use barriers to housing production. It appropriates a total of \$2.2 million, divided equally among DLCD and DCBS, to establish and implement the Housing Accountability and Production Office.