

HB 3414 -23 STAFF MEASURE SUMMARY

House Committee On Rules

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 5/9, 6/1, 6/8, 6/20

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 use. Allows denial if 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) and describes the departments' respective rulemaking authority. Describes duties of Office in providing technical assistance for local jurisdictions and housing developers to reduce permitting and land use 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 processes 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: Fiscal impact issued

REVENUE: No revenue impact

ISSUES DISCUSSED:

- Provisions of amendments
- Balancing local government autonomy with housing production needs
- Clarifying authority between lead agencies (DLCD/DCBS)
- Funding mechanism needed to address local government technical assistance needs
- Potential impact of state wildfire risk maps on development to which measure applies
- Focusing adjustments to incentivize affordable housing production over market-rate
- Provisions of amendment related to land supply
- Incorporation of concepts similar to those of the Climate-Friendly and Equitable Communities program
- Whether measure supports inclusionary zoning
- Comparison with provisions of Senate Bill 4 (2023) which allowed limited UGB expansion for semiconductor or other advanced manufacturing facility use.
- Likelihood of cities to utilize UGB amendment allowed by measure

EFFECT OF AMENDMENT:

-23 Replaces the measure.

Adjustment to development application:

Requires a local government to grant an adjustment to up to ten specified development and design standards for an application for a building permit or quasi-judicial land use decision. Clarifies an adjustment, for purposes of Act, is a deviation from an existing land use regulation, but does not include deviation to building code requirements, or other specified federal or state land use or water quality requirements or regulations. Specifies

an eligible development must be on lands zoned for residential or mixed-use residential use, is within an urban growth boundary, and will yield net new housing units. Requires an application for adjustment to state that it will: enable development not otherwise feasible due to cost or delay; enable an increase in number of units; enable a reduction in sale or rental price per unit; or be subject to a specified affordability covenant.

Specifies timelines and process for adjustment application review, appeal, and issuance of final decision; clarifies a local government's decision under provisions of Act may be appealed only by applicant or the Housing Accountability and Production Office.

Directs cities with a population of 10,000 or greater to include housing developed through adjustment approvals as part of annual housing capacity reporting to the Department of Land Conservation and Development (DLCD); requires DLCD to report on this data to Legislative Assembly on or before September 15 of each even-numbered year. Sunsets provisions of Act related to adjustment approvals on January 2, 2032.

Housing Accountability and Production Office:

Directs Department of Land Conservation and Development (DLCD) and Department of Consumer and Business Services (DCBS) to establish the Housing Accountability and Production Office (Office) and describes duties of the Office in supporting implementation of local procedures and standards relating to the approval of residential development projects. Directs Office to establish, by April 1, 2024, process for receiving and investigating allegations by residential developers of local governments' violations of housing laws. Describes notice requirements and options to remedy a suspected violation. Directs Office to prioritize technical assistance funding to local governments that agree to comply with housing laws.

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, Land Conservation Development Commission, or DCBS. Describes procedural and notice requirements for enforcement order requested by Office. Allows applicants for the development of needed housing, and any local government that approved a quasi-judicial land use decision, to obtain attorney fees in prevailing appeals before the Land Use Board of Appeals, provided the notice of intent to appeal is filed on or after January 1, 2024.

Directs Office, through an outside contractor, to provide report to the Legislative Assembly by September 15, 2024, identifying improvements in local development approval, land use, zoning and permitting process.

Urban growth boundary amendment:

Allows a city outside Metro to adopt an amendment to the city's urban growth boundary (UGB) for a site that is adjacent to the city's existing UGB, designated as an urban reserve, a nonresource land, or subject to an acknowledged exception to a statewide planning goal relating to farmland or forest land, provided the city has not previously adopted a UGB amendment under provisions of this Act. Defines an eligible site as a lot or parcel or contiguous lots or parcels with or without common ownership, in which the total acreage does not exceed 150 net residential acres for a city with a population 25,000 or greater, or does not exceed 75 net residential acres for a city with population less than 25,000. Clarifies adoption of UGB amendment for these cities does not require county approval. Allows a city within Metro to petition Metro to amend city's UGB for a site that does not exceed 600 total net residential acres and complies with the provisions of Act.

Requires a city within or outside Metro that is adopting or is petitioning Metro for a UGB amendment to adopt a conceptual plan for a site that meets criteria related to housing diversity, specified density averages dependent on city size; designated open space and commercial uses; access to transportation and services; retention of designation for environmental protection for any such areas within the site; and provision of necessary urban

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services. Clarifies conceptual plan must include specified affordability requirements, and allows a city to impose greater affordability requirements for residential units if it significantly offsets certain development and predevelopment costs. Describes requirements of a city to engage the public, specified public entities and affected lot owners prior to adoption of a conceptual plan. Requires a city or Metro to submit a conceptual plan and adopted UGB amendment to DLCD for review and approval within specified timelines.

Directs cities for which a UGB was amended under provisions of the Act to report to DLCD on the status of the development within the site every two years until January 2, 2033 or until the city determines development as described by conceptual plan is complete. Repeals provisions of Act related to UGB amendment on January 2, 2033.

Appropriations and effective date:

Appropriates, for the biennium beginning July 1, 2023, unspecified General Fund moneys to DLCD to perform the duties of the Office as described by Act. Appropriates \$10 Million to DLCD for educational materials, technical assistance and grants to local governments to update local implementation of land use laws and building code enforcement to align with state requirements and to implement voluntary compliance agreements.

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 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 2019, the Legislative Assembly enacted House Bill 2003, which required each city with a population greater than 10,000 to conduct a housing needs analysis and to develop and adopt a housing production strategy to address unmet housing needs. The measure also allocated funding to DLCD to create a new methodology, known as the Regional Housing Needs Analysis, for a statewide approach to address housing needs across income levels, while reducing geographic disparities in access to housing.

Subsequent legislation in 2021 and 2022 directed DLCD to study and make legislative recommendations on the incorporation of a regional housing needs analysis into state and local planning programs, and to convene local government, development, and community-based and culturally specific stakeholders to make recommendations to address housing needs and land supply issues throughout the state. This work culminated in the enactment of House Bill 2001 (2023) which established the Oregon Housing Needs Analysis within Oregon Housing and Community Services (OHCS), with the stated purpose of furthering housing production and housing choice at all levels of affordability.

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. The measure directs DLCD and the Department of Consumer and Business Services (DCBS) to jointly establish the 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 to DLCDC and DCBS to establish and implement the Housing Accountability and Production Office.

PRELIMINARY