

LOC Supports HB 3414 with -5 Amendment (Rep. Gamba)

The LOC supports the goals of increased housing production, reduced development timelines, and improved affordability – while minimizing red tape and administrative burden on local government.

Only the -5 Amendment can achieve these goals.

In contrast, HB 3414 and the -6 amendment contradict adopted state housing priorities, remove important local tools to meet new state requirements and add new layers of bureaucracy that will prevent already limited city resources and staff from encouraging and approving housing development.

- **Cities want a process that's implementable and protects community standards while building more housing. The -5 amendment works, and the other proposed processes don't work, causing more red tape and litigation.** The -5 amendment provides developers and cities a clear administrative path allowing flexibility on a wide range of development standards for middle housing and multifamily development. To qualify for an adjustment(s), a developer must demonstrate how the intent of the adjusted standard is being met or mitigated and that the adjustment(s) will: reduce development times, increase housing production, or improve affordability. **The focus is on getting results.**
- **The LOC supports creation of a state Housing Accountability and Production Office (HAPO), but the proposed office needs side boards to prevent increased litigation and delay for development projects.** The -5 narrows the complaint and enforcement function of the HAPO to reduce administrative burden on local staff, avoids NIMBY complaints and focuses on housing production:
 - The office will only receive complaints from developers related to specific housing developments. The office will not receive complaints related to local legislative/planning decisions.
 - A developer must choose a path (LUBA or HAPO) within 21 days, which is the existing requirement for LUBA appeals. If they choose HAPO and don't like resolution, they may then appeal to LUBA but if they first choose LUBA they cannot then appeal to HAPO if they don't like LUBA decision
 - Include a statute of limitations to ensure complaints don't affect any development application approved before the HAPO operational date
 - Provide necessary clarity on when a complaint has a final decision and development can go forward, which is critical to our production goals.



-6 Amendment Technical Concerns

Local governments need to comply with existing laws passed by the Legislature in recent years and are already working to implement associated housing code and mandates. Even with the -4 and -6 amendments, developers can bypass a number of state and local development priorities that would result in significant detriments to livability, health, environment, climate, and equity. Cities will not be able to enforce housing production strategies, protection of natural resources (Goal 5 and 15), transportation infrastructure standards, climate-friendly regulations, or new urban growth area development and it will prevent cities from meeting recent state mandates including:

- Middle housing code (HB 2001, 2019),
- Housing Production Strategies (HB 2003, 2019) and the Oregon Housing Needs Analysis (OHNA) (HB 2001, 2023)
- Climate Friendly and Equitable Communities (CFEC) Rules

Barriers to housing availability need to be addressed in a manner that will not slow down the land use application process.

- Even with the -4 and -6 amendments, functionally if a city denies a variance based on one of the listed reasons, it will have to make findings supported by substantial evidence in the record demonstrating the necessity of the denial to survive a legal challenge. This shifts the burden to local city staff to provide substantial evidence for the variance request. Staff time and capacity will be diverted from approving land use applications for housing and associated construction permits in a timely manner.
- The broad variance language in HB 3414 and the -4 and -6 amendments creates an increasingly ambiguous and discretionary review process for housing projects and undermines the importance of clear and objective standards (a clear path for developers). This will shift the focus of local planners, slow the development review process, and make it difficult for cities to hit housing production targets. It would be clearer and easier to administer if the legislation included a list of standards that are specifically subject to this waiver, instead of taking the reverse approach that opens the door to more ambiguity and time to process applications. The lack of objective standards will only add additional process and slow down housing approvals.

The LOC supports the creation of a state housing office, but the proposed complaint process raises significant concerns:

- It is unclear how this proposed review of violations squares with traditional litigation routes of local governments' land use decisions: (LUBA appeal) and non-land use decisions (Circuit Court writ of review) or DLCD/LCDC for review/enforcement of comprehensive plans, UGB expansions, etc. A complainant could file simultaneous or concurrent appeals through LUBA, circuit court or to LCDC. This means a local government could be responding to three separate venues for the same complaint. When does a local government action become final and not subject to further review?
- Complaints are not limited to developers, any interested party could file complaints with the HAPO, including community members opposed to housing development.
- The bill does not include a statute of limitations for enforcement – meaning that someone could complain about a housing law violation years after the fact. This leads to uncertainty both for developers and local governments.

Please oppose the -6 and adopt the -5 amendment to HB 3414