



STATE OF OREGON  
LEGISLATIVE COUNSEL COMMITTEE

February 26, 2025

Senator Khanh Pham, Chair  
Senate Committee on Housing and Development  
900 Court Street NE S407  
Salem OR 97301

Re: Comparison between Senate Bill 438 and Senate Bill 878

Dear Senator Pham:

You asked for a high-level comparison between introduced Senate Bill 438 (2025) and introduced Senate Bill 878 (2025) for today's public hearing.<sup>1</sup> Both bills would allow additional homes, including manufactured dwellings, on lands outside of the urban growth boundary that already have existing housing and would require that those new homes be initially occupied by a family member of the owner. SB 878 refers to the new homes as "family dwelling units."

First, it may be worth noting that these bills are similar to previously introduced legislation: SB 438 is based on introduced House Bill 3616 (2023) and SB 878 is based on introduced House Bill 4046 (2024). However, neither bill had a public hearing, and therefore the public legislative history on these bills is negligible. Separately, introduced House Bill 2400 (2025) addresses the same concept and recently had a public hearing in the House Committee on Housing and Homelessness. This opinion does not address those other bills.

There are numerous textual differences between the two bills that appear to be related to form and style and organization. When bills are redrafted, they are reviewed by an attorney and editors in our office and similar requests, particularly when there are changes, may end up diverging in structure. For instance, SB 878 groups the siting requirements for a family dwelling unit into section 2 (2)(f), while the same requirements appear throughout section 2 (1) of SB 438.

Substantively, there are a few differences between the bills. Section 2 (1) of SB 438 allows a new home on each lot or parcel, whereas section 2 (2) of SB 878 applies to a "tract." Tract is defined to mean "contiguous lots or parcels under the same ownership."<sup>2</sup> Therefore, SB 878 would prohibit an owner with multiple adjacent lands with housing from siting more than one family dwelling unit.

SB 438 also does not require the owner of the property to reside in the existing home, as SB 878 does. So, although a family member of the owner would need to occupy the new home, the existing home might be occupied by an unrelated tenant.

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<sup>1</sup> This memo was prepared on a tight deadline and is intended to give a first impression of a legal issue.

<sup>2</sup> ORS 215.010 (2)

Finally, SB 438 does not explicitly allow a county to permit the conversion of a family dwelling unit into a nonresidential use as SB 878 does.

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Very truly yours,

DEXTER A. JOHNSON  
Legislative Counsel

A handwritten signature in black ink, appearing to read "R. Mauger", is positioned below the typed name of the Senior Deputy Legislative Counsel.

By  
Robert Mauger  
Senior Deputy Legislative Counsel

c: Kaia Maclaren, LPRO Analyst  
Senate Committee on Housing and Development