

HB 4037 B STAFF MEASURE SUMMARY
Senate Committee On Housing and Development

Carrier: Sen. Anderson

Action Date: 02/26/26
Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)
Vote: 5-0-0-0
Yeas: 5 - Anderson, Jama, Nash, Patterson, Pham
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Kaia Maclaren, LPRO Analyst
Meeting Dates: 2/26

WHAT THE MEASURE DOES:

The omnibus measure addresses a range of housing-related issues, including clarifying eligibility for city and county housing project funding programs and modifying the long-term affordability enforcement of publicly supported housing projects. It broadens the enforcement and penalty authority of Oregon Housing and Community Services (OHCS) for noncompliance within the city and county housing project funding program. It defines which nonprofits may qualify as community development financial institutions for purposes of a manufactured dwelling park loan program and directs specific agreements to allow grant funds to be used for moderate-income housing projects. The measure broadens the enforcement authority of the Land Conservation and Development Commission (LCDC). It directs LCDC to amend its rules on the prioritization of lands for urban reserves and adds certain requirements for building affordable housing in planned mixed-use developments. The measure expands the category of one- and two-family dwellings eligible for exemption from mandatory plan review by removing the restriction to conventional light frame construction. The measure also modifies local government review procedures for housing development applications. It creates new provisions governing residential tenancies affected by a natural disaster. It restructures and expands the priority order for the acquisition of surplus state-owned real property. The measure takes effect on the 91st day after adjournment sine die.

Detailed Summary:

City and County Housing Project Funding Programs (Sections 1–11)

- Creates a new statutory definition of “eligible housing project” that clarifies the types of for-sale and rental housing that qualify and sets affordability requirements
- Authorizes OHCS to establish terms under which affordability restrictions may terminate upon foreclosure by a permitted mortgage lender
- Requires project grants and project loans to be secured by a recorded affordable housing covenant
- Authorizes the transfer and assumption of project funding under terms established by OHCS or the sponsoring jurisdiction
- Allows OHCS to authorize subordination of the affordability covenant if the sponsoring jurisdiction has pledged its full faith and credit and an alternative revenue source acceptable to the department
- Prohibits eligible housing project property located in an urban renewal area from receiving the property tax exemption under ORS 307.227
- Specifies that the rejection of an application and the amount of a project funding award are not appealable, but allows reapplication within program deadlines
- Authorizes a sponsoring jurisdiction to forgo adopting a separate ordinance or resolution detailing an eligible housing project for a project funding agreement if specified statutory conditions related to delegated review authority, loan repayment, and property tax status are met

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- Expands OHCS's authority to compromise, adjust, modify, subordinate, or release agency loans and related agreements to maximize repayment and compliance with affordability requirements
- Clarifies that agency loans remain outstanding until repaid in full, and may be repaid at any time; upon full repayment, the sponsoring jurisdiction may release or modify affordability restrictions applicable to the property
- Makes a developer liable for immediate payment of outstanding fee obligations if the developer fails to comply with affordability requirements or restrictions
- Expands the penalty provision to apply to developers, homeowners, and other project representatives, to cover all project funding rather than only project grants, and to authorize penalties for willful misrepresentations with compliance requirements for an eligible housing project

Community Development Financial Institutions (Sections 12–13)

- Directs OHCS, the Department of Administrative Services (DAS), or the Department of Justice to amend the grant agreement with the Network for Oregon Affordable Housing (NOAH) to expand permissible uses of the grant and grant proceeds to housing projects with an affordability term of at least five years, sold or rented as a primary residence for households with incomes more than 60 percent and up to 120 percent of the area median income, and receive financing of not more than \$1,000,000 per eligible project

LCDC Orders (Section 15)

- Modifies the circumstances under which LCDC may issue an enforcement order requiring a local government, state agency, or special district to take corrective action, and removes the limitation that enforcement applies only to cities with a population of 10,000 or greater

Building Plan Review (Section 16)

- Removes the limitation that the exemption from building plan review applies only to one- and two-family dwellings of conventional light frame construction

Review of Housing Applications (Section 17)

- Adds the following new procedural limitations for applications for local governments: providing notice only to owners of record within 100 feet of the subject property, or within 500 feet for developments of 20 units or more; not requiring a public hearing before making a decision; and allowing a local appeal only to the applicant

Residential Tenancies Impacted by Disasters (Sections 20–21)

- Establishes statutory rules for termination, rent obligations, return of deposits, and tenant access following destruction of a dwelling unit by a natural disaster, and limits tenant rent liability while the unit is posted as unsafe or unlawful to occupy

Use of State Property for Housing (Sections 22–24)

- Requires DAS, to the extent consistent with trust responsibilities, to provide an opportunity to acquire surplus property in a specified order of priority:
 - Places other state agencies first in priority
 - Adds lessees of the land as a priority category
 - Adds a separate priority opportunity for specified entities to acquire property for the development of housing for households earning up to 120 percent of the area median income
 - Reorders and expands priority categories to include Indian Tribes, nonprofit organizations, housing authorities, and other persons, adjacent property owners, and political subdivisions

Urban Reserves (Section 25)

- Directs LCDC to amend its rules on the prioritization of lands added to an urban reserve to allow local governments to assign lower priority to lands for which the future provision of urban services is not reasonable or cost-effective due to terrain or other physical constraints, including built constraints
- Directs LCDC to adopt these rules on or before January 1, 2027, without an advisory committee

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Residential Development on Commercial Lands (Section 26)

- Provides that if an application is submitted for an affordable housing development within a planned mixed-use development, and that application would have the effect of reducing the lands available for commercial use within the planned development to less than 80 percent of the amount in the adopted plan, the applicant must amend the planned development to allow an additional area not smaller than the proposed housing development
- Defines “planned mixed-use development”

Technical Fixes (Sections 27–31)

- Modifies the timeline for final plat approval following tentative approval of a middle housing land division
- Directs the Department of Land Conservation and Development to report to the legislature by July 1, 2028, on the feasibility and advisability of providing safe harbor protections for cities that use the commission’s model system development charges or otherwise incentivizing their use

ISSUES DISCUSSED:

- Moderate Income Revolving Loan Fund framework and use
- Housing development process and barriers
- Stakeholder involvement process in the measure’s provisions
- Amendments and the concurrence vote process

EFFECT OF AMENDMENT:

The amendment changes requirements for the by-right development of affordable housing in a planned, mixed-use development, and directs LCDC to amend its rules on the ability of local governments to prioritize lands for urban reserves.

Detailed Summary:

Directs LCDC to amend its rules on the prioritization of lands added to an urban reserve to allow local governments to assign lower priority to lands for which the future provision of urban services is not reasonable or cost-effective due to terrain or other physical constraints, including built constraints. Directs LCDC to adopt these rules on or before January 1, 2027, without an advisory committee.

Changes the requirements in the section of Oregon law stating that a local government shall allow the development of affordable housing, as defined, on lands zoned for commercial use. Provides that if an application is submitted for an affordable housing development within a planned mixed-use development, and that application would have the effect of reducing the lands available for commercial use within the planned development to less than 80 percent of the planned amount, the applicant must amend the planned development to allow an additional area not smaller than the proposed housing development. Defines “planned mixed-use development.”

BACKGROUND:

Oregon law authorizes cities, counties, and other sponsoring jurisdictions to establish project funding programs that provide grants and loans to support the development of affordable and middle-income housing (see ORS 307.214). Local governments adopting these programs must establish eligibility requirements, application processes, and review procedures for developers seeking funding (see ORS 307.214 and ORS 307.216). Once funding is approved, jurisdictions must enter into project funding agreements with developers, adopt local laws describing funded projects, and distribute loan proceeds, while coordinating with county tax officials regarding property tax treatment and exemptions (see ORS 307.225). State law also establishes repayment and enforcement provisions.

Oregon land use statutes generally require local governments to regulate housing development using clear and objective standards that do not discourage needed housing through unreasonable cost or delay, while preserving

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local authority to regulate development standards and offer alternative approval processes that comply with statewide planning goals (see ORS 197A.400). Current law (ORS 197A.445) also directs local government to allow the development of affordable housing on property zoned for commercial use within an urban growth boundary (UGB), with some exceptions where the land is unsuitable for development due to terrain or proximity to natural hazards.

Local comprehensive planning, mandated by Senate Bill 100 (1973), aims to align local land-use needs and goals with state standards, statewide planning goals, and administrative rules. Urban reserves have been a feature of this process since the passage of Senate Bill 1011 in 2007, which allowed Metro and metro-area counties to designate lands that might be added to a UGB as part of a 50-year plan for the region's growth. The use of urban reserves was expanded to any city with a population greater than 10,000 people with House Bill 2001 (2023), and the rulemaking process for the prioritization of lands for urban reserves was updated in 2025 by Senate Bill 1129, which allowed for lower priority to be given to otherwise high-priority lands if the topographical constraints of that land made providing future urban services unreasonable.