

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4037

By COMMITTEE ON HOUSING AND DEVELOPMENT

March 2

1 On page 1 of the printed A-engrossed bill, line 2, after “197A.400,” insert “197A.445,”.

2 On page 18, after line 23, insert:

### “URBAN RESERVES

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6 “**SECTION 25.** (1) On or before January 1, 2027, the Land Conservation and Development  
7 Commission shall amend its rules related to the prioritization of lands being added to an  
8 urban reserve in order to allow local governments to assign lower priority to land for which  
9 the provision of future urban services, as defined in ORS 195.065, is not reasonable or cost  
10 effective due to existing topographical or other physical constraints including built con-  
11 straints.

12 “(2) Notwithstanding any provision in ORS 183.325 to 183.410, rules adopted under this  
13 section shall be adopted without an advisory committee.

### “RESIDENTIAL DEVELOPMENT ON COMMERCIAL LANDS

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16  
17 “**SECTION 26.** ORS 197A.445 is amended to read:

18 “197A.445. (1) As used in this section:

19 “(a) ‘Affordable housing’ means residential property:

20 “(A) In which:

21 “(i) Each unit on the property is made available to own or rent to families with incomes of 80  
22 percent or less of the area median income;

23 “(ii) The average of all units on the property is made available to families with incomes of 60  
24 percent or less of the area median income; or

25 “(iii) A manufactured dwelling park is operated that serves only households with incomes of 120  
26 percent or less of the area median income; and

27 “(B) Whose affordability, including affordability under a covenant as described in ORS 456.270  
28 to 456.295, is enforceable for a duration of no less than 30 years.

29 “(b) ‘Area median income’ means the median income for the metropolitan statistical area in  
30 which housing is located as determined by the Housing and Community Services Department and  
31 adjusted for household size based on information from the United States Department of Housing and  
32 Urban Development.

33 “(2) A local government shall allow affordable housing if the proposed affordable housing is on  
34 property that is:

35 “(a) Owned by:

1 “(A) A public body, as defined in ORS 174.109;  
2 “(B) A nonprofit corporation that is organized as a religious corporation;  
3 “(C) A nonprofit corporation that is organized as a public benefit corporation whose primary  
4 purpose is the development of affordable housing;  
5 “(D) A housing authority, as defined in ORS 456.005; or  
6 “(E) A manufactured dwelling park nonprofit cooperative, as defined in ORS 62.803; or  
7 “(b) Zoned:  
8 “(A) For commercial uses;  
9 “(B) To allow religious assembly; or  
10 “(C) As public lands.  
11 “(3) A local government shall allow the conversion of a building or a portion of a building from  
12 a commercial use to a residential use.  
13 “(4) Subsections (2) and (3) of this section:  
14 “(a) Prohibit the local government from requiring a zone change or conditional use permit before  
15 allowing the use.  
16 “(b) Do not trigger any requirement that a local government consider or update an analysis as  
17 required by a statewide planning goal relating to economic development.  
18 “(c) Except as provided in paragraph (d) of this subsection, do not apply on lands where the  
19 local government determines that:  
20 “(A) The development on the property cannot be adequately served by water, sewer, storm water  
21 drainage or streets, or will not be adequately served at the time that development on the lot is  
22 complete;  
23 “(B) The property contains a slope of 25 percent or greater;  
24 “(C) The property is within a 100-year floodplain; or  
25 “(D) The development of the property is constrained by land use regulations based on statewide  
26 land use planning goals relating to:  
27 “(i) Natural disasters and hazards; or  
28 “(ii) Natural resources, including air, water, land or natural areas, but not including open spaces  
29 or historic resources.  
30 “(d) Do apply to property described in paragraph (c)(C) and (D)(i) of this subsection if more than  
31 60 percent of the lands within the urban growth boundary that the property is within are located  
32 within a tsunami inundation zone or if more than 30 percent of the lands within the urban growth  
33 boundary that the property is within are located within a 100-year floodplain.  
34 “(5) The development of housing under subsection (2) of this section may occur only:  
35 “(a) Within an urban growth boundary; and  
36 “(b) On lands zoned to allow for industrial uses only if the property is:  
37 “(A) Publicly owned;  
38 “(B) Adjacent to lands zoned for residential uses or schools; and  
39 “(C) Not specifically designated for heavy industrial uses.  
40 “(6) The development of housing under subsection (3) of this section:  
41 “(a) Applies only within an urban growth boundary of a city with a population of 10,000 or  
42 greater;  
43 “(b) May not occur on lands zoned to allow industrial uses;  
44 “(c) May require the payment of a system development charge as defined in ORS 223.299 only  
45 if:

1 “(A) The charge is calculated pursuant to a specific adopted policy for commercial to residential  
2 conversions adopted on or before December 31, 2023; or

3 “(B) The charge is for water or wastewater and includes an offset for at least 100 percent of the  
4 water or wastewater system development charges paid when the building was originally constructed;  
5 and

6 “(d) May not be subject to enforcement of any land use regulation that establishes a minimum  
7 number of parking spaces that is greater than the lesser of:

8 “(A) The amount that may be required for the existing commercial use; or

9 “(B) The amount that may be required in lands zoned for residential uses that would allow the  
10 converted development.

11 “(7) The development of housing allowed under subsection (4)(d) of this section may only occur:

12 “(a) Within an urban growth boundary located no more than 10 miles from the Pacific Ocean;

13 “(b) In areas that require compliance with minimum federal regulations under the National  
14 Flood Insurance Program or with local floodplain development regulations adopted by the applicable  
15 local government, provided that the local regulations are equal to or more stringent than the mini-  
16 mum federal regulations;

17 “(c) In locations that do not include floodways or other areas with higher risks of greater water  
18 velocity and debris flow;

19 “(d) In communities with emergency response, evacuation and post-disaster plans that have been  
20 updated for the housing development; and

21 “(e) In areas that are not public parks.

22 “(8) A local government may prohibit affordable housing or require a zone change or conditional  
23 use permit to develop affordable housing in areas described in subsection (4)(d) of this section.

24 “(9)(a) **An applicant who applies to develop affordable housing under this section within**  
25 **a planned mixed-use development shall, if the development would cause the amount of lands**  
26 **available for commercial uses within the planned mixed-use development to be reduced to**  
27 **less than 80 percent of the amount in the adopted planned mixed-use development, amend**  
28 **the planned mixed-use development to allow an additional area not smaller than the proposed**  
29 **housing development.**

30 “(b) **As used in this subsection, ‘planned mixed-use development’ means an area of land:**

31 “(A) **Larger than 10 acres; and**

32 “(B) **Subject to a land use approval or binding development agreement adopted by the**  
33 **local government that establishes areas or minimum acreages for commercial uses and in-**  
34 **cludes residential or other uses.**

35 “[9] (10) A local government shall approve an application at an authorized density level and  
36 authorized height level, as defined in ORS 227.175 (4), for the development of affordable housing, at  
37 the greater of:

38 “(a) Any local density bonus for affordable housing; or

39 “(b) Without consideration of any local density bonus for affordable housing:

40 “(A) For property with existing maximum density of 16 or fewer units per acre, 200 percent of  
41 the existing density and 12 additional feet;

42 “(B) For property with existing maximum density of 17 or more units per acre and 45 or fewer  
43 units per acre, 150 percent of the existing density and 24 additional feet; or

44 “(C) For property with existing maximum density of 46 or more units per acre, 125 percent of  
45 the existing density and 36 additional feet.

1        “[~~(10)(a)~~] **(11)(a)** Subsection [~~(9)~~] **(10)** of this section does not apply to housing allowed under  
2 subsection (2) of this section in areas that are not zoned for residential uses.

3        “(b) A local government may reduce the density or height of the density bonus allowed under  
4 subsection [~~(9)~~] **(10)** of this section as necessary to address a health, safety or habitability issue,  
5 including fire safety, or to comply with a protective measure adopted pursuant to a statewide land  
6 use planning goal. Notwithstanding ORS 197.350, the local government must adopt findings sup-  
7 ported by substantial evidence demonstrating the necessity of this reduction.”.

8        In line 27, delete “25” and insert “27”.

9        On page 20, line 9, delete “26” and insert “28”.

10       In line 33, delete “27” and insert “29”.

11       On page 21, line 25, delete “28” and insert “30”.

12       In line 31, delete “29” and insert “31”.

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