



Oregon

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Legislature Enacts Senate Bill 1049

Senate Bill 1049, which Governor Kulongoski signed into law on February 25, 2010, amends 2007 Ballot Measure 49, and has three main purposes:

- (1) To provide limited "compensation" (in the form of authorization for a home) for Measure 37 claimants who filed claims only with a county (estimated to be approximately 800 claims);
- (2) To provide limited "compensation" (in the form of authorization for a home) for Measure 37 claimants who sought approval under Measure 49 to build up to ten homes, but who failed to prove that the value of their property was reduced by land use regulations (estimated to be approximately 85 claims); and
- (3) To provide more consistent relief for approximately 700 Measure 37 claimants who acquired their property between 1975 and the date their county's land use regulations were approved by the state.

Section-by-Section Analysis of SB 1049 (2010):

Section 1: This bill amends certain sections of 2007 Ballot Measure 49 and HB 3225 (2009). Measure 49 amended 2005 Ballot Measure 37, which concerns compensation for certain land use regulations that restrict the use of private real property.

Section 2: Under Measure 49 (and Measure 37) a person is entitled to compensation – now in the form of homesite authorizations – only if the development they wish to carry out was permitted when they acquired the property in question. However, during the period from 1975 until the time each county's land use regulations were approved by the state as complying with the state land use planning goals, property owners had to comply with *both* local zoning requirements *and* the state goals.

The state goals (during this period) set subjective standards that are difficult to apply consistently and that require substantial time and expense to analyze. Section 2 of SB 1049 simplifies the processing of approximately 700 Measure 37/49 claims that fall in this "pre-acknowledgement" category. The pre-acknowledgement claims would still have to comply with

the local zoning in place at the date of acquisition, if that zoning was more restrictive than the relief otherwise provided in this section. Absent more restrictive local zoning, section 2 would generally allow claimants one homesite if they own up to 20 acres of land; two homesites if they own more than 20 but less than 40 acres; and 3 homesites if they own more than 40 acres.

Section 3: Measure 49 provides that the homesite authorizations it provides are transferable. However, once the original claimant conveys the property, the authorization must be carried out within the next ten years. This section clarifies that if the original claimant retains an undivided interest in the property and the remaining interest is held by a family member, then the ten-year provision is not triggered.

Section 4: This section clarifies that where a county's first acknowledged zoning did not have a fixed minimum acreage for the approval of a dwelling, forty (40) acres is deemed to be the minimum acreage for purposes of determining whether a home was lawfully permitted.

Section 5: This section provides that section 7 claimants (under Measure 49) who failed to prove that the value of their property was reduced may still qualify for one dwelling if they otherwise meet the requirements of Measure 49.

Section 6: This section provides that Measure 37 claimants who failed to file a state claim but filed a county claim may nevertheless qualify for one dwelling if they otherwise meet the requirements of Measure 49.

Section 7: This section establishes deadlines for completion of claim reviews, and sets a fee of \$2,500 to pay for the cost of reviews under sections 5 and 6 of SB 1049.

Section 8: This section clarifies department authority to participate in judicial review of Measure 49 related litigation.

Section 9: This section provides expenditure limitation and position authority for review of additional claims.

Section 10: Applicability.

Section 11: Emergency clause.

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