



OREGON PROPERTY OWNERS ASSOCIATION

Senate Committee on Natural Resources House Bill 2192A Letter of Support

April 25, 2023

Chair Golden and Committee Members:

We write in support of House Bill 2192A and thank you for holding a hearing on it. The bill was approved by the House Committee on Agriculture, Land Use, Natural Resources and Water on a 8-0 vote and was approved by the House with a 50-0 vote.

HB 2192A applies to replacement dwellings in farm and forest zones. These are existing homes, not new homes. Nothing in the bill changes any criteria for a new dwelling on land where a home has never existed.

ORS 215.755(1) contains the replacement dwelling criteria for properties in the forest zone. The existing language has remained unchanged since it was first introduced in 1997. In order to qualify for a replacement dwelling, the property owner must demonstrate that the existing dwelling **"has"** the features of a dwelling (walls, roof, plumbing, wiring and heat).

In 2022, Lane County became the first county in Oregon to apply a literal interpretation to the word "has" in ORS 215.755(1). Lane County now advises property owners in forest zones that if their home is destroyed or significantly damaged, they will not qualify for a replacement dwelling because the home no longer **"has"** the required features. It certainly "had" the features before it was damaged or destroyed, but because of an intervening event (like a wildfire), the home no longer "has" the features, and does not qualify for a replacement dwelling.

The County's interpretation is certainly novel among the counties and DLCD, but the Oregon Land Use Board of Appeals (LUBA) has indicated in a non-binding opinion that Lane County's interpretation may be correct. If LUBA eventually rules that way, then property owners in all 36 counties would no longer be able to replace a dwelling that had been damaged or destroyed by a natural or human caused disaster. The legislature never intended that interpretation to be the law.

To make matters worse, on January 2, 2024, the exact same language for replacement dwellings in the forest zones will become the law in farm zones, meaning that farmers and ranchers will no longer be able to replace homes destroyed or significantly damaged to the point that the dwelling no longer "has" the features. This is a significant change from current practice and would create a tremendous disruption in rural Oregon.

House Bill 2192A fixes this issue by allowing a property owner in a farm or forest zone to replace a dwelling that **"has, or formerly had"** the required features. The bill allows a property owner a limited time (3 years)

from the date the home no longer “has” the features to apply for a replacement dwelling, and then allows the property owner a reasonable time (4 years) from the date the replacement home is approved to begin construction.

Earlier versions of the bill contained broader language for replacement dwellings and authorized replacement of dwellings that had once existed on the property but had been removed long ago (in some cases decades). This language proved controversial, so we worked with 1000 Friends of Oregon to make amendments to narrow the time a property owner has to apply for a permit to 3 years from the date the dwelling no longer has all the required features. Once that amendment was made, opposition to the bill evaporated, and the bill was unanimously approved.

Unfortunately, due to the rush of first chamber deadline and the number of amendment requests at Legislative Counsel, we were unable to make the last set of amendments that both we and 1000 Friends believe are necessary to ensure this bill addresses all situations where a property owner might need to apply for a replacement dwelling. Those amendments are found in the dash-A5's, which we hope the committee will adopt.