



# Oregon

Kate Brown, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150  
Salem, Oregon 97301-2540

Phone: 503-373-0050  
Fax: 503-378-5518  
[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

March 10, 2021

**TO:** The Honorable Senator Lee Beyer, Chair  
Senate Committee on Energy and Environment

**FROM:** Emma Land, Legislative Coordinator  
Palmer Mason, Senior Policy Advisor

**RE:** **Senate Bill 375**



SB 375 directs counties to permit a replacement dwelling for any lawful structure in an area zoned for exclusive farm use (EFU) that was considered a dwelling by final order under the Ballot Measure 49 (M49) (2007). In response to the public hearing held on March 9, the department would like to provide the committee with context to the specific property owner's situation and background on M49. The department is not taking a position on this bill but would like to highlight concerns regarding potential unintended impacts of SB 375.

M49 allows eligible property owners to build up to three new dwellings on their property without regard to current zoning restrictions if certain circumstances exist. Each final order under M49 included a standard condition of approval authorizing a county to correct any inaccuracies in DLCD's estimate of existing dwellings when approving a partition or issuing a building permit.

It is our understanding that the property owner who requested SB 375 received a M49 final order authorizing up to three new dwellings. During the hearing, the property owner clarified their intent to permit a fourth dwelling to be used as a rental unit, and that this dwelling was not legally permitted as a dwelling. This would exceed what M49 allowed the owner to do.

More importantly, the department would like to highlight several potential negative impacts that could result from this bill. SB 375 bill would create a new interpretation of what "replacement" means in the land use context. Currently, "replacement" is generally understood as allowing a previously existing use to be reestablished. SB 375 would read "replacement" as a new use taking the place of a different use. The bill would make it difficult to distinguish what had been authorized as a true replacement dwelling and what had been authorized as a replacement that is actually a brand new residential building, or a conversion of a structure previously devoted to farm use to a new residential use.

Additionally, there were over 2,000 M 49 claims filed on EFU land. All final orders for these claims contain unverified information on possible existing dwellings on both claim

March 10, 2021

Page 2 of 2

property and contiguous property. As written, SB 375 would allow any number of additional dwellings on these farmlands based on the unverified information.

Furthermore, the bill would create a new, nonfarm dwelling opportunity in EFU zones without considering site conditions and potential impacts to the agricultural area.

The department is willing to work with the committee, bill sponsor, and property owner to discuss the current issue further and assist in determining the best approach moving forward.