



Oregon

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Guide to Replacement Dwelling Approvals in Exclusive Farm Use Zones under HB 2746 (2013)

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In 2013, the Oregon Legislature passed House Bill 2746, which becomes effective on January 1, 2014. This bill expands the provisions for replacement dwellings in several ways. The bill was primarily intended by its sponsor, the Oregon Farm Bureau, to enable farm properties with deteriorated dwellings to replace them even after they are no longer structurally sound. However, a mechanism was needed to ensure that those dwellings were once structurally sound. It was decided that the prior residential tax assessment of such a dwelling is a way to do this.

This guide summarizes HB 2746 to clarify key provisions and to answer common questions from the perspective of DLCDC, which has oversight over the implementation of the bill. The guide is not intended to provide legal advice or to be a substitute for rulemaking.

HB 2746 does the following:

1. Moves most of the replacement dwelling language out of ORS 2145.213(1) and 215.283(1) and into its own section of the statute (section 1);
2. Maintains the standards for structural integrity for dwellings that are to be replaced that are currently in statute (paragraph 2(2)(a));
3. Allows dwellings to be replaced that have or “formerly had” structural integrity, where certain requirements are met. “Formerly had” may mean that the dwelling is no longer present or that it has deteriorated to the point that it no longer has structural integrity. Both dwellings that currently meet or formerly met the structural standards are subject to the new requirements (paragraph 2(2)(a)).
4. Adds a new requirement that the dwelling to be replaced has been assessed as a dwelling for purposes of ad valorem taxation for either the previous five years or, if the dwelling was erected sooner than that, from the time the dwelling was erected (paragraph 2(2)(b)).
5. Provides an exception to the requirement for tax assessment as a dwelling if the dwelling was destroyed through no fault of the owner, or if the dwelling was demolished for purposes of

restoration. In such cases, the dwelling must have been assessed as a dwelling until the date of destruction or demolition (paragraph 2(2)(b)).

6. Provides an exception to the requirement for tax assessment as a dwelling if it is determined that the dwelling was improperly removed (see definition) from the tax roll by a person other than the current owner (subsection 2(3)).

7. Adds siting standards for replacement dwellings for units that cannot currently meet the standards for structural integrity. Replacement dwellings for units that can currently meet these standards are not subject to these siting standards (subsection 2(5)).

8. Changes the period in which dwellings to be replaced must be demolished, removed or converted from three months to one year, unless the structure is deemed to be unsafe or an attractive nuisance, in which case action may be required within 90 days (paragraph 2(4)(a)).

9. Continues to state that deferred replacement dwelling permits do not expire as long as the dwelling to be replaced is removed or demolished (not converted) within three months of permit issuance (subsection 2(6)). It is unclear why the deferred replacement dwelling provisions are still needed, given point #11 below.

10. Provides that permits for replacement dwellings that have lapsed are deemed valid if exercised within one year of the effective date of the bill (section 3).

11. Exempts replacement dwelling permits from the time to act and extension limits of ORS 215.417 (section 6).

12. Sunsets all of HB 2746's provisions on January 2, 2024. At that time, the previous replacement dwelling provisions will be reintroduced (sections 10 and 11).

If you have further questions about implementation of these new provisions, please contact Katherine Daniels, DLCD Farm and Forest Lands Specialist, at 503-934-0069 or katherine.daniels@state.or.us.