

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form.

**FILED**  
12-15-14 3:39 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

Land Conservation and Development Department  
Agency and Division

660  
Administrative Rules Chapter Number

Regulates the transfer of development interests from properties approved for development under Ballot Measure 49.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adoption of new rules, and amendments to current related rules, that will provide a framework for local governments to allow landowners to transfer severable development interests from properties with Measure 49 development authorizations to other locations.

**Statutory Authority:**

ORS 197.040

**Other Authority:**

**Statutes Implemented:**

ORS 195.300-195-336; 2007 Oregon Laws, chapter 424

**Need for the Rule(s):**

The proposed new rules, and changes to existing rules, are needed in order to provide a framework for local governments to establish programs that allow landowners to transfer Measure 49 development credits to other locations, including locations in other jurisdictions. The rules are needed because the authorization for such programs under Measure 49 (Oregon Laws 2007, chapter 424, section 11) does not provide enough detail to reasonably encourage local governments to undertake adoption of such programs. The proposed changes will clarify procedures and requirements for such transfer, and will also allow purchase of these development credits and allow subsequent development of land in certain locations, and in a manner, that may not be otherwise allowable under current rules or local land use regulations.

**Documents Relied Upon, and where they are available:**

ORS chapters 92, 195, 197 and 215; Statewide Planning Goals (OAR 660, div. 15); OAR chapter 660, div 4 and OAR 660, div 27; Oregon Laws 2007, chapter 424, section 11. Meeting comments from members of the Rule Advisory Committee the Department convened to consider the development of this proposed rule division. These documents are available on the Department of Land Conservation web site at <http://www.oregon.gov/LCD/index/shtml> or by contacting Casaria Taylor at the Department of Land Conservation and Development at 503-373-0050 ext. 322.

**Fiscal and Economic Impact:**

The proposed rules are expected to have only minor fiscal and economic impacts, as described below.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

Agencies and local governments that choose to adopt transfer of development interest programs authorized by the proposed rules would incur some administrative costs, some of which could be recouped through applicant fees. The cost to administer these transfers would be minimal but because of the unique nature of this program it is difficult to estimate these potential administrative costs with specificity at this time.

Agencies, local governments and other qualified entities that choose to acquire conservation easements for protected properties under the proposed rules could incur costs for managing or monitoring those easements. But these entities would be voluntarily assuming the duties of holding a conservation easement and they could choose to pass these costs on to the applicant. It is not anticipated that the rules will have cost impacts on the general public.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

Small businesses, and types of business and industries with small businesses subject to the rule, will not have cost of compliance impacts imposed on them because participation in the program is entirely voluntary for small businesses. Additionally, the development rights being transferred under the rule are for residential development.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

No costs or activities are "required" for compliance, in that only those local governments, state agencies or other entities that voluntarily elect

to participate in the program would incur costs. Costs to those entities that do elect to follow the rules will vary widely depending on the size of the jurisdiction and the number of participants and therefore cannot be estimated in advance.

**c. Equipment, supplies, labor and increased administration required for compliance:**

No costs "required for compliance" are anticipated for equipment, supplies, labor and administration for the same reasons described in a. and b. above.

**How were small businesses involved in the development of this rule?**

Two small business owners participated on the Rules Advisory Committee. Other small businesses were consulted prior to the rulemaking process.

**Administrative Rule Advisory Committee consulted?: Yes**

**If not, why?:**

<u>01-22-2015 Close of Hearing</u>	<u>Casaria Taylor</u>	<u>casaria.taylor@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address