

House Research Act Summary

CHAPTER: 149

SESSION: 2009 Regular Session

TOPIC: Nonconforming lots in shoreland areas

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Overview

This law, effective May 22, 2009, is the result of work during the 2008 interim by representatives of DNR, local governments, and others affected by or interested in making changes to the laws governing nonconforming uses in shoreland areas. Since 2006, bills had been introduced to prohibit a local government from limiting the ability of an owner of two or more contiguous nonconforming lots to use, develop, or sell one of the lots. The local regulations are based on DNR shoreland regulations required by statute.

Section

- 1 Nonconformities; certain classes of property (county planning statute).** Clarifies that the damage to nonconforming property is measured by the estimated market value as indicated in the records of the county assessor at the time of the damage.

Provides that if the nonconforming structure is in a shoreland district with less than 50 percent of the required setback from the water, in rebuilding after damage, the set back may be increased if practicable and reasonable conditions are placed on the zoning or building permit to mitigate impacts on the adjacent property or water body.
- 2 Existing nonconforming lots in shoreland areas (county planning statute).** (a) Provides that this new subdivision applies to shoreland lots of record on the date of adoption of local shoreland controls for lots that do not meet lot size or width requirements. Requires the county to regulate the use of nonconforming lots.

(b) Permits building on a single nonconforming lot without a variance from lot size requirements if certain conditions are met. The conditions are intended to protect the water.

(c) Permits an individual nonconforming lot that is part of a group of two or more

contiguous nonconforming lots under common ownership to be treated as a separate parcel for the purpose of sale or development if certain conditions are met. The conditions are intended to protect the water.

(d) Requires a lot subject to paragraph (c) that does not meet the conditions, to be combined with one or more contiguous lots so they equal one or more conforming lots as much as possible.

(e) Allows contiguous nonconforming lots under a common ownership to be sold or purchase individually if each lot had a habitable residence at the time the lots came under common ownership and the lots have adequate sewage treatment or are connected to a public sewer.

(f) Requires a property owner to address conservation and water protection measures as part of a request for a variance, zoning or permit.

(g) Clarifies that a portion of a conforming lot may be separated from an existing parcel as long as the remainder is conforming and the newly created parcel is combined with an adjacent parcel.

3 Nonconformities (municipal planning). Same as sections 1 and 2, but for cities and towns.

4 Effective May 22, 2009.