

Enrolled
House Bill 2868

Sponsored by COMMITTEE ON REVENUE

CHAPTER

AN ACT

Relating to small tract forestland taxation; creating new provisions; amending ORS 308A.703, 308A.707, 321.706, 321.716 and 321.719; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 321.716 is amended to read:

321.716. (1) The county assessor shall disqualify land as small tract forestland upon:

- (a) Sale or transfer of the small tract forestland;
- (b) Discovery by the assessor that the land is no longer forestland;
- (c) The owner's owning or holding in common ownership more than 5,000 acres of Oregon forestland;
- (d) The owner's owning or holding in common ownership less than 10 acres of Oregon forestland;
- (e) Written notice from the State Forestry Department that the land no longer meets the stocking and species requirements applicable to small tract forestland under rules adopted by the Department of Revenue;

(f) The land's qualifying for another special assessment listed in ORS [308A.703 (1)] **308A.706 (1)(d)(A), (B) or (F)**; or

(g) The recording of a subdivision plat under ORS chapter 92 that subdivides the land.

(2) If, pursuant to subsection (1)(g) of this section, the county assessor disqualifies small tract forestland upon the recording of a subdivision plat, the land may requalify for small tract forestland assessment upon:

- (a) Payment of all additional tax and interest that remains due and owing as a result of the disqualification;
- (b) Submission of an application for small tract forestland assessment under ORS 321.706 and approval of the application by the county assessor; and
- (c) Compliance with any applicable local government zoning ordinances governing minimum lot or parcel acreage for forest use.

(3)(a) If a sale or transfer of small tract forestland is the basis for disqualification under subsection (1)(a) of this section, the land may not be disqualified until 30 days after the county assessor issues a notice of intent to disqualify to the purchaser or transferee of the small tract forestland. The assessor shall issue a notice of intent to disqualify within 15 months after the date of the sale or transfer.

(b) The land shall automatically qualify for special assessment under ORS 321.257 to 321.390 or 321.805 to 321.855, whichever is applicable, unless the assessor determines that the land does not constitute forestland.

[3] (4) Upon disqualification of land under subsection (1) of this section, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733.

SECTION 2. ORS 321.719 is amended to read:

321.719. (1) Notwithstanding ORS 321.716 (1)(a), if the sale or transfer of small tract forestland is to a person who, following the date of the sale or transfer, does not own or hold in common ownership less than 10 acres or 5,000 acres or more of forestland in Oregon, the sold or transferred forestland may remain small tract forestland, if:

(a) Within 30 days [*of the recorded date of the sale or transfer,*] **after the date the county assessor issues the notice of intent to disqualify under ORS 321.716**, the purchaser or transferee has applied for continued qualification of the small tract forestland;

(b) The purchaser or transferee is otherwise eligible to be an owner of small tract forestland under ORS 321.700 to 321.754; and

(c) Any forestland owned or held in common ownership by the purchaser or transferee that is a contiguous parcel to the purchased or transferred forestland is:

(A) Qualified as small tract forestland or is the subject of an application for qualification under ORS 321.706; or

(B) Included as part of the application for continued qualification filed under this section, and the additional information required in an application for qualification of small tract forestland under ORS 321.706 is included in the application for continued qualification filed under this section.

(2)(a) A purchaser or transferee described in subsection (1) of this section shall apply for continued qualification to the county assessor of the county in which the forestland that is the subject of the sale or transfer is located. If the forestland is located in more than one county, the purchaser or transferee shall apply for continued qualification to the county assessor of each county in which the forestland is located.

(b) The application shall be on a form prescribed by the Department of Revenue and supplied by the county assessor that contains:

(A) The name and address of the seller or transferor of the small tract forestland;

(B) The name, address and taxpayer identification number of the purchaser or transferee of the small tract forestland;

(C) A statement listing the county and containing a description sufficient to identify the location of the small tract forestland being purchased or transferred;

(D) A statement listing the county and containing a description sufficient to identify the location of all parcels of land owned or held in common ownership by the purchaser or transferee that are contiguous to the small tract forestland that is being purchased or transferred;

(E) The total acreage of Oregon forestland owned or held in common ownership by the purchaser or transferee;

(F) A statement that the applicant is aware of the potential tax liability that arises under ORS [308A.703 and] 308A.707;

(G) An affirmation that the statements contained in the application are true; and

(H) Any other relevant information the department may prescribe.

(3) The assessor shall review the application and grant the continued qualification of the land as small tract forestland following the sale or transfer if the purchaser or transferee satisfies the requirements of subsection (1) of this section.

(4)(a) If the [*purchase or transfer occurred*] **application for continued qualification is filed** prior to July 1 of the assessment year, the assessor shall process the application for continued qualification for the tax year beginning that July 1.

(b) If the [*purchase or transfer occurred on or after July*] **notice of intent to disqualify is issued on or after June 1** of the assessment year, the assessor **may not disqualify the land as small tract forestland for the tax year beginning July 1, and** shall process the application for continued qualification for the tax year beginning the next succeeding July 1.

(c) An application for continued qualification shall be deemed approved unless, within three months of the date the application was made or before August 15 of the year in which the applica-

tion was filed, whichever is later, the county assessor notifies the purchaser or transferee in writing that the application has been wholly or partially denied.

(5) A purchaser or transferee may appeal the decision of the county assessor to wholly or partially deny an application for continued qualification to the tax court in the time and manner prescribed under ORS 305.404 to 305.560.

(6) In the case of an application for continued qualification that is approved by the county assessor, the assessor shall send a written notification of the approval and a copy of the application to the department.

(7) For purposes of computing additional taxes under ORS 308A.707, upon a subsequent disqualification of small tract forestland that is granted continued qualification under this section, the small tract forestland is considered to have been subject to small tract forestland assessment without interruption from the period before the sale or transfer to the date of subsequent disqualification from small tract forestland assessment.

(8) Notwithstanding subsection (1) of this section, a purchaser or transferee of small tract forestland may file an application for continued qualification of the small tract forestland after the date prescribed in subsection (1) of this section if:

(a) The application is filed on or before December 15 of the first tax year for which the forestland would otherwise be disqualified from small tract forestland assessment; and

(b) The applicant pays a \$200 late filing fee at the time the application is filed.

SECTION 3. ORS 308A.703 is amended to read:

308A.703. (1) This section applies to land upon the land's disqualification from special assessment under any of the following sections:

- (a) Exclusive farm use zone farmland under ORS 308A.113;
- (b) Nonexclusive farm use zone farmland under ORS 308A.116;
- (c) Western Oregon designated forestland under ORS 321.359;
- (d) Eastern Oregon designated forestland under ORS 321.842; **or**
- [(f)] (e) Small tract forestland under ORS 321.712 or 321.716; or*
- [(f)] (e) Wildlife habitat special assessment under ORS 308A.430.*

(2) Following a disqualification listed in subsection (1) of this section, an additional tax shall be added to the tax extended against the land on the next assessment and tax roll, to be collected and distributed in the same manner as other ad valorem property tax moneys. The additional tax shall be equal to the difference between the taxes assessed against the land and the taxes that would otherwise have been assessed against the land, for each of the number of years determined under subsection (3) of this section.

(3) The number of years for which additional taxes shall be calculated shall equal the lesser of the number of consecutive years the land had qualified for the special assessment program for which disqualification has occurred or:

(a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately following disqualification, remains outside an urban growth boundary;

(b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm use zone, but only if the land, immediately following disqualification, remains outside an urban growth boundary; or

(c) Five years, in the case of:

- (A) Nonexclusive farm use zone farmland;
- (B) Western Oregon designated forestland;
- (C) Eastern Oregon designated forestland;
- [(D) Small tract forestland;]*

[(E)] (D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection; or

[(F)] (E) Wildlife habitat special assessment land that is not described in paragraph (b) of this subsection.

(4) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(5) If the disqualification of the land is the result of the sale or transfer of the land to an ownership making the land exempt from ad valorem property taxation, the lien for additional taxes shall attach as of the day preceding the sale or transfer.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

SECTION 4. ORS 308A.707 is amended to read:

308A.707. (1) Notwithstanding ORS 308A.706 [and in addition to and not in lieu of any additional tax imposed under ORS 308A.703], additional taxes [determined as prescribed under subsection (2) of this section] shall be imposed on land that is disqualified from small tract forestland assessment under ORS 321.712 or 321.716. **If after disqualification the land remains specially assessed under a special assessment program described in ORS 308A.706 (1)(d)(A) to (D) or (F), the additional taxes shall be computed under subsection (2) of this section. If after disqualification the land is not specially assessed under a program described in ORS 308A.706 (1)(d)(A) to (D) or (F), the additional taxes shall be computed under subsection (3) of this section.**

(2)(a) The additional taxes for disqualified small tract forestland that is qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D) or (F) shall be equal to the difference between the taxes assessed against the land under ORS 321.700 to 321.754 and the taxes that would have been assessed against the land:

(A) Under ORS 321.257 to 321.390, if the land is located in western Oregon; or

(B) Under ORS 321.805 to 321.855, if the land is located in eastern Oregon.

(b) The number of years for which additional taxes shall be calculated shall equal the lesser of 10 years or the number of consecutive years the land has been assessed as small tract forestland.

(3)(a) The additional taxes for disqualified small tract forestland that is not qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D) or (F) shall be equal to the sum of:

(A) The amount determined under subsection (2) of this section; and

(B) The difference between the taxes that would have been assessed against the land under ORS 321.257 to 321.390, if located in western Oregon, or ORS 321.805 to 321.855, if located in eastern Oregon, and the taxes that would otherwise have been assessed against the land, for the lesser of the number of consecutive years the land was forestland or five years.

(b) Notwithstanding paragraph (a)(B) of this subsection, if any provision of ORS 308A.700 to 308A.733 would cause the deferral or elimination of additional taxes that are imposed under ORS 308A.703 or 308A.712, that provision shall also cause the deferral or elimination of the additional taxes imposed under paragraph (a)(B) of this subsection, under the same terms, requirements and conditions that additional taxes under ORS 308A.700 to 308A.733 are deferred or eliminated.

[3] (4) The additional taxes described in this section shall be imposed and collected at the same time and in the same manner as additional taxes described in ORS 308A.703 are imposed and collected.

[4] (5) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

[5] (7) As used in this section, “forestland,” “western Oregon” and “eastern Oregon” have the meanings given those terms in ORS 321.700.

SECTION 5. ORS 321.706 is amended to read:

321.706. (1) An owner of forestland seeking to have the forestland qualified under ORS 321.700 to 321.754 shall apply to the county assessor of the county in which the forestland is located for qualification of the forestland as small tract forestland. If the forestland to be qualified is located

in more than one county, the owner shall apply for qualification to the county assessor of each county in which the forestland is located.

(2) An application shall be made on a form prescribed by the Department of Revenue and supplied by the county assessor that contains:

(a) The name and address of the forestland owner;

(b) The taxpayer identification number of the forestland owner;

(c) A statement listing the county and containing a description sufficient to identify the location of all land for which small tract forestland qualification is sought;

(d) A statement describing the uses of the land for which qualification as small tract forestland is sought;

(e) A statement indicating the extent to which the land that has been the subject of the application has been platted under ORS chapter 92;

(f) The total acreage of Oregon forestland owned or held in common ownership by the owner;

(g) A statement that the applicant is aware of the potential tax liability that arises under ORS [308A.703 and] 308A.707 upon disqualification of small tract forestland;

(h) An affirmation that the statements contained in the application are true; and

(i) Any other relevant information the department may prescribe.

(3) The applicant shall file the application with the county assessor on or before the later of:

(a) April 1 of the first assessment year for which the forestland is to be qualified as small tract forestland;

(b) In the case of land that is omitted property, within 30 days of the notice of assessment of the property as omitted property; or

(c) December 15 of the first assessment year for which the forestland is to be qualified as small tract forestland if:

(A) For the prior assessment year the land was highest and best use forestland; and

(B) For the current assessment year the land is being assessed at a value reflecting a use other than highest and best use forestland.

(4) The county assessor shall review an application and qualify the forestland under ORS 321.700 to 321.754 if the land meets the qualifications for small tract forestland under ORS 321.709.

(5) Land that qualifies as small tract forestland is also disqualified from any other special assessment program as of the tax year for which the land first qualifies as small tract forestland.

(6) An application shall be deemed approved unless, within three months of the date the application was made or before August 15 of the year in which the application was filed, whichever is later, the county assessor notifies the applicant in writing that the application has been wholly or partially denied.

(7) A taxpayer may appeal the decision of the county assessor to wholly or partially deny an application for small tract forestland qualification to the tax court in the time and manner prescribed under ORS 305.404 to 305.560.

(8) In the case of property that qualifies as small tract forestland, the county assessor shall send to the department a written notification of the qualification and a copy of the application.

SECTION 6. The amendments to ORS 308A.703, 308A.707, 321.706, 321.716 and 321.719 by sections 1 to 5 of this 2005 Act apply to tax years beginning on or after July 1, 2005, and to small tract forestland assessment disqualifications occurring on or after January 1, 2005.

SECTION 7. This 2005 Act takes effect on the 91st day after the date on which the regular session of the Seventy-third Legislative Assembly adjourns sine die.

Passed by House May 18, 2005

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate June 10, 2005

.....
President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2005

.....
Secretary of State