

Enrolled Senate Bill 281

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Joint Interim Committee on Judiciary for Oregon State Bar Real Estate and Land Use Section)

CHAPTER

AN ACT

Relating to county land; creating new provisions; amending ORS 275.060, 275.080, 275.090, 275.105, 275.110, 275.120, 275.160, 275.180, 275.190, 275.200, 275.210, 275.220, 275.225, 275.240, 275.250, 275.275, 275.290, 275.294, 275.296, 275.298, 275.300, 275.312, 275.314, 275.316, 275.320, 275.330, 275.335, 275.360, 275.370 and 312.260; and repealing ORS 275.100 and 275.230.

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

SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS 275.110 to 275.250.

SECTION 2. (1) As used in ORS 275.110 to 275.250, “purchase agreement” means a purchase money mortgage, a purchase money trust deed, a land sale contract or any other written purchase agreement other than an earnest money agreement that requires payment of an earnest money deposit upon execution and payment of the outstanding balance in one additional payment.

(2) As used in ORS 275.190, “for cash,” when used to describe the terms of a sale of county property, includes a sale pursuant to an earnest money agreement that requires payment of an earnest money deposit upon execution and payment of the outstanding balance in one additional payment.

SECTION 3. ORS 275.190 is amended to read:

275.190. (1) [All] Sales made under ORS 275.110 to 275.250 [shall] **must** be to the highest and best bidder:

(a) For cash [or, in the discretion of the county court,]; **or**

(b) For not less than 10 percent of the purchase price in cash[,] **with** the remainder to be paid under [written] a **purchase** agreement [with the purchaser] in equal installments over a term not exceeding 20 years from the date of sale[, all] **and with** deferred payments [to bear] **bearing** interest from the date of sale at a rate set by the **governing body of the county** [court,] **and** payable annually.

(2) In advertising for bids, the county shall state whether the sale will be made for cash or by [installment] **purchase** agreement. If by [installment] a **purchase** agreement **that allows for deferred payments**, the county shall also state the term and the rate of interest to which the county will agree.

[2] (3) The purchaser shall have the possession of, and the income from the premises so long as the purchaser is not in default in the performance of the [purchaser's] **purchase** agreement with

the county, but shall forfeit the purchaser's rights under *[such]* **the** agreement and to all payments made pursuant thereto if the purchaser fails to pay *[such]* **the** purchase price or any part *[thereof]* **of the purchase price**, principal or interest, or to pay, before delinquency, the taxes thereafter levied against the premises, or commits or suffers any strip or waste of or on *[such]* **the** premises, or violates any other reasonable provision of *[such]* **the purchase** agreement *[which]* **that** the **governing body of the county** *[court]* may see fit to require. The purchaser shall have the privilege of prepayment without penalty. *[All of such]* **The** provisions *[shall]* **of this subsection must** be incorporated in the *[written]* **purchase** agreement.

SECTION 4. ORS 275.200 is amended to read:

275.200. (1) When **the governing body of** a county *[court]* enters an order under ORS 275.110 directing the sheriff to sell real property acquired in any manner by the county, if *[any such lands remain]* **all or a part of the land remains** unsold after the time set for the sale *[thereof]* in the sheriff's published notice or after *[any]* adjournment of *[such]* **a sheriff's** sale, the **governing body of the county** *[court]* may sell *[such]* **the** lands as provided in subsection (2) of this section.

(2) After the sheriff has unsuccessfully attempted to sell real property of the county as provided in ORS 275.120 to 275.160, the **governing body of the county** *[court]* may sell *[such lands, or any part thereof, or any interest therein]* **all or a part of the land, or an interest in the land** less than the whole fee, at private sale without further notice but for not less than the largest amount bid *[therefor at any such]* **for the land at the sheriff's** sale, or, if no bid *[therefor]* was made, at *[such]* **a price** *[as]* the **governing body of the county** *[court]* deems reasonable, but at a price no less than 15 percent of the minimum bid set under ORS 275.110 for the sheriff's sale.

(3) A sale under this section *[shall]* **must** be made *[for cash or under written agreement as]* **in the manner** provided by ORS 275.190 (1).

(4) Nothing in this section prohibits **the governing body of** a county *[court]* from entering an order at any time under ORS 275.110 directing the sheriff to sell real property of the county as provided in ORS 275.120 to 275.160.

SECTION 5. ORS 275.210 is amended to read:

275.210. (1) *[All written agreements]* **A purchase agreement** made pursuant to ORS 275.190 or 275.200 *[shall]* **must** be filed with the clerk, accountant or secretary, as the case may be, of the county in which the real property is situated.

(2) *[No]* **An** assignment of *[any such]* **a purchase** agreement, *[of sale]* or of *[any]* **an** interest *[therein]* **in the purchase agreement** or of *[any]* **an** interest in *[any of]* the property *[therein]* described *[shall be]* **in the purchase agreement, is not** valid unless it is in writing, subscribed by the holder of *[such]* **the purchase** agreement and filed with the county clerk of the county in which the land is situated.

SECTION 6. ORS 275.220 is amended to read:

275.220. (1) In case of breach of condition or other default in performance of *[any]* **a land sale** contract made pursuant to ORS 275.190 or 275.200, the **governing body of a county** *[court]* may, by order made and entered in its records, declare *[such]* **the** breach or default and cancel *[such]* **the land sale** contract or enter into a new **purchase** agreement in writing. If the **land sale** contract is canceled **and the holder is found within the county**, a certified copy of the order shall be served as a summons is served by the sheriff upon the holder of *[such]* **the** canceled **land sale** contract. *[if the holder is found within the county, and]* If **the land sale contract is canceled and** the holder is not *[so]* found **within the county**, *[then]* **a certified copy of the order shall be served** by mailing it to the holder by registered mail or by certified mail with return receipt at the last-known address of the holder. Return of such service shall be made upon such copy of order.

(2) Within 20 days after the service of the order of cancellation upon the holder, the holder of the canceled **land sale** contract may appeal from *[such]* **the** order to the circuit court for the county in which the land is located. The **circuit court shall try the** appeal *[shall be tried by the court]* as an action not triable by right to a jury. If appeal is not *[so]* taken or if it results, upon trial, in an affirmance of the order of cancellation, *[such]* **the** order *[shall become]* **becomes** absolute and the real property *[so]* forfeited *[again]* may be sold[,] without notice.

(3) In addition to the remedy for breach or default of a land sale contract under this section, a county may pursue any other remedy provided by law for breach or default of a land sale contract including, but not limited to, the remedy provided by ORS 93.905 to 93.940.

(4) In case of breach of condition or other default in performance of a purchase agreement other than a land sale contract, a county may pursue any remedy provided by law for breach or default of a purchase agreement other than a land sale contract.

SECTION 7. ORS 275.225 is amended to read:

275.225. (1) Notwithstanding ORS 275.110 to 275.220, **the governing body of** a county [*governing body*] may authorize the sale of county land by private sale as provided in this section if each parcel of county land to be sold is:

(a) Assessed at less than \$5,000 on the most recent assessment roll prepared for the county; and
(b) Unsited for the construction or placement of a dwelling [*thereon*] under current zoning ordinances and building codes of the county.

(2) [*A county*] **The governing body of the county** may publish a notice of the private sale of county land described in subsection (1) of this section in a newspaper of general circulation in the county. The notice [*shall*] **must** contain a description of the land and [*shall*] **must** indicate the assessed value of the land.

(3) Not earlier than 15 days after publication of the notice, [*any*] **an** officer or employee of the county authorized by the **governing body of the county** [*governing body*] to sell [*such*] **the** land may sell **all or a part of** the land, [*or any part thereof,*] at private sale without further notice, at [*such*] a price [*as*] **the governing body of** the county [*governing body*] considers reasonable.

(4) A sale under this section [*shall be made for cash or under a written agreement approved by the county governing body for installment payment of the purchase price*] **must be made in the manner provided by ORS 275.190 (1).**

SECTION 8. ORS 275.240 is amended to read:

275.240. [*All lands*] **Land** sold under [*written*] **a purchase** agreement in accordance with ORS 275.190 (1) **is** [*shall be*] subject to taxation to the same extent as other privately owned real property. When [*any*] **a purchase** agreement [*of sale*] is canceled, as provided in ORS 275.220, the real property [*therein described shall*] **must** be removed from taxation and all taxes then unpaid [*shall*] **must** be canceled.

SECTION 9. ORS 275.275 is amended to read:

275.275. (1)(a) The proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 [*shall*] **must** be applied:

(A) First, to refund the county general fund for the full amount advanced by the county to pay the state tax upon all properties upon which the county has foreclosed liens for delinquent taxes;

(B) Second, to the county general fund in an amount equal to the penalty and fee described in ORS 312.120 for each property upon which the county has foreclosed a lien for delinquent taxes; and

(C) Third, to refund the county general fund for all the costs and expenses incurred by the county in the maintenance and supervision of such properties and in any suits by it to quiet its title to property sold. The proceeds applied as refunds under this subparagraph and subparagraph (A) of this paragraph shall not amount to more than the tax actually paid and the costs and expenses actually incurred by the county.

(b) After the refunds authorized under paragraph (a) of this subsection are made, the county treasurer shall credit to the **county** general fund [*of the county*] proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 from the sale of real property acquired by the county in [*any*] **a** manner other than by foreclosure of delinquent tax liens or by exchange for land originally acquired by foreclosure of delinquent tax liens [*and proceeds arising under ORS 275.294 from any lease or conveyance granting rights to explore, prospect for or remove biogas that is produced by decomposition of solid waste at any land disposal site or former land disposal site owned by the county*]. The proceeds described in this paragraph include payments for [*such*] **the** real property sold under [*contract*] **a purchase agreement** pursuant to ORS 275.190 or 275.200. [*As used in this paragraph, "land disposal site" has the meaning given that term in ORS 459.005.*]

[(2)(a) Except for the proceeds arising under ORS 275.294 that are described in subsection (1) of this section, all proceeds arising under ORS 275.294 shall be segregated from the proceeds described in subsection (1) of this section and shall be deposited in a separate account maintained by the county. Only moneys obtained under ORS 275.294, and interest earned thereon, shall be credited to the account established under this paragraph.]

[(b) Not more than 10 percent of the proceeds arising under ORS 275.294 may be applied to reimburse any taxing district within the county for costs and expenses necessarily incurred by the district in providing improved, additional or extraordinary services required on lands in the county as a result of exploration, drilling, mining, logging or other activities authorized under a lease or conveyance under ORS 275.294. Such services include, but are not limited to, fire protection and road construction and maintenance.]

[(c) Ten percent of the proceeds arising under ORS 275.294 may be applied to reimburse the county for administrative expenses incurred under ORS 275.294 and this subsection. If, in any year, such expenses exceed 10 percent of the proceeds arising under ORS 275.294, the amount of expenses not reimbursed may be carried forward into succeeding years until the county is fully reimbursed. However, not more than 10 percent of the proceeds arising under ORS 275.294 in any one year may be used for such reimbursement.]

[(d) Costs and expenses sought to be reimbursed under this subsection shall be verified by the county treasurer or auditor.]

[(e) Moneys applied as reimbursement under this subsection shall be distributed by the county treasurer in accordance with an order of the county governing body.]

(2) The proceeds arising under ORS 275.294:

(a) Must be credited to the county general fund by the county treasurer, if received from a lease or conveyance granting rights to explore, prospect for or remove biogas that is produced by decomposition of solid waste at any land disposal site or former land disposal site owned by the county. As used in this paragraph, "land disposal site" has the meaning given that term in ORS 459.005.

(b) Must be segregated from the portion of the proceeds described in paragraph (a) of this subsection and deposited in a separate account maintained by the county. Interest earned on the segregated portion of the proceeds must be credited to the account established under this paragraph.

(c) May be used, in an amount that does not exceed 10 percent of the proceeds, to reimburse a taxing district within the county for costs and expenses necessarily incurred by the district in providing improved, additional or extraordinary services required on lands in the county as a result of exploration, drilling, mining, logging or other activities authorized under a lease or conveyance under ORS 275.294. As used in this paragraph, "improved, additional or extraordinary services" includes, but is not limited to, fire protection and road construction and maintenance.

(d) May be used to reimburse the county for its actual costs and expenses incurred under this subsection and under ORS 275.294 for:

(A) The maintenance and supervision of a lease or conveyance granting rights to explore, prospect for, mine or remove valuable minerals, oil or gas from the lands;

(B) The maintenance and supervision of a lease or conveyance granting rights to conduct underground storage, as defined in ORS 520.005; and

(C) Litigation resulting from a lease or conveyance described in subparagraph (A) or (B) of this paragraph.

(3)(a) After a portion of the proceeds [is] arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and a portion of the proceeds arising under ORS 275.294 are applied as provided in subsections (1) and (2) of this section, the balance of the proceeds arising under ORS 275.090 to [275.310] 275.290 and 275.296 to 275.310 and the balance of the proceeds arising under ORS 275.294, including the payments for land sold under contract pursuant to ORS 275.190 or 275.200, [shall] must be distributed by the county treasurer as follows:

(A) First, to *[any]* a municipal corporation that has filed a notice, in accordance with ORS 275.130, relating to a local improvement lien against the property from which the sale proceeds are derived. The amount of the distribution to each municipal corporation *[shall]* **must** be in the principal amount of the lien, plus the interest and any penalties that accrued to the date of sale of the property.

(B) Second, to governmental units in accordance with the formula provided in ORS 311.390 *[which is currently being used]* for the distribution of tax collections. The amount distributed to governmental units *[shall]* **must** be the amount remaining after the distribution, if any, under subparagraph (A) of this paragraph.

(b) Notwithstanding ORS 294.080, as used in this subsection, “balance of the proceeds *[arising under ORS 275.090 to 275.310]*” includes all accumulated interest earned on the proceeds arising under ORS 275.294 **that are segregated pursuant to subsection (2)(b) of this section**, unless a court of competent jurisdiction rules otherwise.

(4) Distribution of moneys under subsections (2) and (3) of this section *[shall]* **must** be made on or before June 30 in each year.

(5) The county treasurer or auditor shall verify the costs and expenses to be reimbursed under subsection (2) of this section.

(6) The county treasurer shall distribute reimbursements under subsection (2) of this section in accordance with an order of the governing body of the county.

SECTION 10. ORS 275.060 is amended to read:

275.060. (1) Except as otherwise provided by statute, *[any county court]* **the governing body of a county** may exchange county land of any character, which has first been offered for sale but not sold for want of a satisfactory bid, for other lands of equal value to which the owner thereof can give clear title and which are free of all liens and encumbrances.

(2) Exchanges may be effected between the county and an individual, partnership or corporation. Thirty days prior to the consummation of the exchange, notice of intention to exchange, setting forth the legal description of the property to be exchanged, together with the appraised value as recently determined by the **governing body of the county** *[court]* and the legal description of the property to be acquired in exchange, shall be published for two successive weeks in a newspaper of general circulation in the county. At any time before an exchange is actually made, written objection thereto may be filed by any interested person and the **governing body of the county** *[court]* shall consider any such objection, and at its discretion may conduct hearings thereon. If, after duly considering such objection, the *[court]* **governing body of the county** still deems that the proposed exchange is for the best interests of the county, *[they]* **the governing body** may proceed with the exchange and *[their]* **its** determination in that respect shall be final.

(3) Lands received by the county in exchange may be sold, leased or exchanged the same as might have been done with the lands originally exchanged.

SECTION 11. ORS 275.080 is amended to read:

275.080. (1) *[Any county court]* **The governing body of a county** may sell in the manner provided for sale of county land under ORS 275.120, 275.140 to 275.160 and 275.180 to 275.260, and convey to any person or corporation impounding and selling water to the public, any lands acquired by such county through foreclosure of tax liens or otherwise, when, in the discretion of *[such county court]* **the governing body of the county**, the conveyance is necessary for the preservation or protection of any watershed from which water is being impounded and sold to the public by such person or corporation.

(2) Legal title to timber on such lands shall remain in the county and such timber shall not be removed therefrom except with the express written consent of and under the direct supervision of the State Board of Forestry.

(3) Should any such lands so conveyed cease to be used to preserve and protect the watershed for which it was conveyed, or if the person or corporation does not take water from the watershed for a period of one year, legal title to such land shall immediately revert to and revest in the county without the necessity of reentry.

SECTION 12. ORS 275.090 is amended to read:

275.090. [Each] **The governing body of each** county [court] shall have the following powers and duties with respect to all lands acquired by the county by foreclosure of delinquent tax liens, or by exchange, devise or gift:

(1) To protect such lands from fire, disease and insect pests, to cooperate with the United States of America, the State of Oregon, and with the agencies of both, with persons owning lands within such counties, and with other counties of the State of Oregon in the protection of such county-owned lands and to enter into all agreements necessary or convenient therefor.

(2) To sell, exchange, and lease such lands or any portion of or interest in the same less than the whole fee.

(3) To grant easements and rights of way over, through and across such lands.

(4) To reforest cut-over or burned-over timberlands and to cooperate with the United States of America, the State of Oregon and the agencies of both, and with other counties of the State of Oregon, and with persons, firms and corporations owning timberlands within such county in such reforestation and to make all agreements necessary or convenient therefor.

(5) To make all rules and regulations, not inconsistent with law, necessary or convenient for the protection, administration, operation, conveyance, leasing and acquisition of lands.

(6) To employ such assistance as may be necessary to carry out the provisions of ORS 275.090 to 275.316 and to cooperate with other counties in this state in such employment.

SECTION 13. ORS 275.105 is amended to read:

275.105. If any county has bid in and acquired for taxes and has received a deed for not less than 90 percent of the number of the lots in any addition or subdivision or plat, and if it considers it wise so to do, the **governing body of the** county [court] shall, by order duly made and entered, authorize the purchase of such remaining lots from the owners or may exchange for the lots other lots owned by such county. Upon acquiring title to all the lots in any addition or subdivision or plat, it may enter an order vacating the whole of such addition, subdivision or plat. If any remaining lots are purchased by the county pursuant to this section, the purchase price of the lots shall not be greater than the real market value of the lots, and if other lots are exchanged for the remaining lots, those lots shall be accepted in full payment of the purchase price of the lots for which they are exchanged.

SECTION 14. ORS 275.110 is amended to read:

275.110. (1) [Whenever any] **When the governing body of a** county [court] considers it to be for the best interests of the county to sell any real property acquired in any manner by such county, or any interest therein less than the whole fee, it shall enter an order upon its records directing the sheriff to make sale thereof, and fix the minimum price for which each interest, parcel or group of parcels may be sold and the conditions and terms of sale. The order may be amended from time to time or revoked as the [court may deem] **governing body deems** proper.

(2) Subsection (1) of this section and ORS 275.120 to 275.160 do not apply to the sale of any real property to any other public body or to the sale of any real property that is an industrial facility as defined by ORS 271.510. The sale of industrial facilities shall be made in the manner provided by ORS 271.510 to 271.540.

SECTION 15. ORS 275.120 is amended to read:

275.120. (1) Upon receipt of a certified copy of the order referred to in ORS 275.110, the sheriff shall publish a notice of the sale of such property in a newspaper of general circulation, printed and published in the county where the land is situated, once each week for four consecutive weeks prior to such sale.

(2) The notice shall state:

(a) The time and place of sale;

(b) The description of the property or interest therein to be sold;

(c) If available from the tax roll, the real market value of the property or interest to be sold as evidenced by the last roll certified under ORS 311.105 on which the property was included;

(d) The minimum price for the property or interest to be sold, as fixed by the [county] governing body **of the county**, which may be lower than the tax roll value;

(e) The date of the order directing the sale; and

(f) Such other matters as the **governing body of the county** [court] deems pertinent.

(3) Proof of publication of the notice shall be made in the same manner as proof of publication of summons is made, and shall be filed by the sheriff with the county clerk of the county, and then recorded in the deed record of the county.

SECTION 16. ORS 275.160 is amended to read:

275.160. Upon the close of such sale, the sheriff shall make due return to the **governing body of the county** [court] of the proceedings of the sheriff pursuant to the commands of such order of sale.

SECTION 17. ORS 275.180 is amended to read:

275.180. (1) [Any] **The governing body of a county** [court] may at any time, without the publication of any notice, sell and convey[,] by deed [signed by the county judge and commissioners or the board of county commissioners,] to the record owner or the contract purchaser of record, any property acquired by the county for delinquent taxes for not less than the amount of taxes and interest accrued and charged against such property at the time of purchase by the county with interest thereon at the rate of six percent per annum from the date of such purchase.

(2) All such sales of any such property to the record owner or the contract purchaser of record shall be subject to all liens or claims arising out of any assessment for a local improvement levied against such property, or any part thereof, by any municipal corporation and remaining unsatisfied, and also shall be subject to any title or equity of the municipal corporation predicated upon or growing out of any such lien or assessment.

SECTION 18. ORS 275.250 is amended to read:

275.250. Upon any sale or resale as provided in ORS 275.110 to 275.220, the **governing body of the county** [court forthwith] shall notify the county assessor thereof.

SECTION 19. ORS 275.290 is amended to read:

275.290. (1) In any instrument of conveyance or agreement for conveyance of timber upon lands acquired by any county by foreclosure of delinquent tax liens or otherwise under ORS 275.090 to 275.220, the **governing body of the county** [court] may provide such conditions and regulations of cutting and slash disposal as may be deemed to be for the best interests of the county, which conditions and regulations shall be in addition to the provisions of the state forest fire law.

(2) Any purchaser of such timber may be required to give a bond or undertaking in favor of the county conditioned upon the compliance of the purchaser with all such conditions and regulations and with the provisions of the state forest fire laws, the bond to be in an amount not less than the full purchase price of the timber.

(3) The instrument or agreement for conveyance may be made for a term of years, in which case all rights and interests thereby granted by the county shall revert to and revest in the county upon expiration of the term.

SECTION 20. ORS 275.294 is amended to read:

275.294. (1) Nothing contained in this chapter shall prohibit the **governing body of a county** [court of any county], whenever it appears to the best interest of the county, from making or executing a lease or conveyance granting rights to explore or prospect for valuable minerals or oil and gas and for the mining and removal of the same from any lands acquired by such county through foreclosure of tax liens or otherwise.

(2) Except as provided in subsection (3) of this section, any lease or conveyance of minerals or oil and gas or interest in such lands shall be granted to the highest bidder, after an opportunity for competitive bidding is given by advertisement of the proposed sale or lease for not less than once a week for two successive weeks by publication in one or more newspapers having general circulation in the county, and under such terms, conditions and regulations as the **governing body of the county** [court may provide] **provides** under ORS 275.300.

(3) The **governing body of the county** [court], as to any land which is owned by the county or whereon the mineral rights are reserved by the county, may execute leases and contracts, other than for gas or oil, upon a royalty basis without requiring bids for the mining of gold, silver, copper, lead, cinnabar and valuable minerals or mineral materials from such lands upon terms and conditions agreed upon by the **governing body of the county** [court] and the lessee.

SECTION 21. ORS 275.296 is amended to read:

275.296. All leases and conveyances granting the right to explore or prospect for minerals or oil and gas and for the mining and removal of the same on or from county-owned lands, executed and delivered by [any] **the governing body of a county** [court] prior to August 3, 1955, and which might be invalid only because the **governing body of the county** [court] was not expressly authorized by statute to execute and deliver such leases or conveyances, hereby are validated and declared to be legal and enforceable.

SECTION 22. ORS 275.298 is amended to read:

275.298. (1) In any sale hereafter made under ORS 275.110 to 275.250 of minerals or mineral rights heretofore reserved to a county where such minerals or mineral rights were acquired by a county by foreclosure of delinquent tax liens, the holder of an interest less than the fee in the same lands where the mineral rights are located shall have the right to purchase such minerals or mineral rights interest by depositing with the sheriff within 60 days from date of sale not less than the high amount bid for the minerals or mineral rights by a third person. If no sale was made at the offering, then such person shall have the right to purchase at whatever price the **governing body of the county** [court or board of county commissioners] deems reasonable.

(2) Unless the purchaser at any sale is the owner of some interest less than the fee, the execution of a deed shall be postponed for 60 days from the date of sale in order to give the party granted preferential right under subsection (1) of this section, or the assignee of the party, the right to exercise the preference in the manner set forth in subsection (1) of this section.

(3) The provisions of this section shall not be applicable to the sale of mineral rights on or under any land suitable for the commercial production or development of timber.

SECTION 23. ORS 275.300 is amended to read:

275.300. In any conveyance or agreement for conveyance of any minerals, or other interest, less than the whole fee, in any lands acquired by any county by foreclosure of delinquent tax liens or otherwise under ORS 275.090 to 275.220, the **governing body of the county** [court] may provide such conditions and regulations as may be deemed to be for the best interests of the county and may require of the purchaser a satisfactory bond or undertaking in the name of the county in an amount not less than the whole purchase price of such minerals or other interests in such lands, conditioned upon the compliance of the purchaser with such conditions and regulations.

SECTION 24. ORS 275.312 is amended to read:

275.312. Notwithstanding any other law, in any county where the surface rights to tax-foreclosed lands have been conveyed and the mineral rights on such lands have been reserved or excepted by the **governing body of the county** [court] making such conveyance, upon written application of the owner of such surface rights, the **governing body of the county** [court], whenever it appears to the **governing body of the county** [court] to be in the best interests of the county, may convey such reserved or excepted mineral rights to the owner of the surface rights in accordance with ORS 275.314 and 275.316.

SECTION 25. ORS 275.314 is amended to read:

275.314. Each application presented to the **governing body of the county** [court] under ORS 275.312 must be accompanied by evidence satisfactory to the **governing body of the county** [court] showing that the applicant is the owner of the surface rights to the lands described in the application, and also by a cash deposit or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in an amount sufficient to reimburse the county for all costs of such transfer, including but not limited to the costs of investigation and legal work, which shall be paid by the applicant. The **governing body of the county** [court] then shall cause an investigation to be made by qualified geologists or mining engineers in regard to the probable value of such mineral

rights. If the **governing body of the county** [court] finds that such rights are of little or doubtful value and that it would be in the best interests of the county to transfer such rights to the owner of the surface rights, the **governing body of the county** [court] may make and enter an order declaring its intention to make such transfer and setting a time and place for hearing objections thereto. The time for the hearing shall be set not earlier than six weeks after the date of the order.

SECTION 26. ORS 275.316 is amended to read:

275.316. (1) The county clerk shall give notice of the time and place of the hearing scheduled under ORS 275.314 by publication in a newspaper of general circulation published in such county, once each week for four consecutive weeks prior to the hearing. The notice shall set forth the time and place of the hearing, the name of the applicant and a description of the lands in the proposed transfer. If no newspaper of general circulation is published in the county, notice may be given by the clerk by posting such notice in at least four public places in the county.

(2) Upon such hearing, if the **governing body of the county** [court] finds that such mineral rights are of little or doubtful value and that it would be in the best interests of the county to convey such rights to the record owner of the surface rights, it may fix a minimum value for such rights and enter an order accordingly. Thereupon the **governing body of the county** [court], after receiving payment of such value, [under the hands of the county judge or chairperson of the board of county commissioners, as the case may be,] may execute and deliver the necessary deeds of conveyance.

SECTION 27. ORS 275.320 is amended to read:

275.320. [Any] **The governing body of a county** [court sitting for the transaction of county business] may, by order, designate as county forests, public parks or recreational areas any real property heretofore or hereafter acquired by the county for delinquent taxes or otherwise. Where the park or recreational area is situated in whole or in part within the corporate limits of any city the county first shall obtain the consent or approval, by resolution or ordinance adopted by the city consenting or approving the creation of the public park or recreational area.

SECTION 28. ORS 275.330 is amended to read:

275.330. (1) Upon the entry of an order by the **governing body of a county** [governing body] setting aside the real property for county forest, public park or recreational area, the lands shall be set apart for such use. Thereafter such lands may not be alienated by the [county] governing body **of the county** for any purpose unless authorized by a majority of the electors of the county in a regular or special election, except that:

(a) In counties having 450,000 population or over according to the latest federal decennial census:

(A) The lands may be sold and conveyed by the [county] governing body **of a county** if it considers the sale to be in the best interests of the county; or

(B) The lands may be conveyed without payment or compensation for park and recreational purposes to any public educational institution, park and recreation district, service district formed under ORS chapter 451 to provide and maintain park and recreational facilities or nonprofit corporation organized under the laws of the State of Oregon for as long as the lands so conveyed are used for such purposes. Any lands conveyed under this subparagraph shall automatically revert to the county if the lands are not used for such purposes or if the institution, district or corporation to which the lands are conveyed is dissolved. However, lands conveyed under this subparagraph to a nonprofit corporation which is organized for the purpose of promoting the preservation of park and recreational areas may be conveyed without restriction subject to prior approval of the **governing body of the county** [court]. When lands are conveyed under this subparagraph, the county shall be relieved from any obligation to account for the payment of any taxes, liens or assessments that may have been levied against the lands by any taxing agency, district or municipality authorized to levy against any of the lands.

(b) The [county] governing body of [any] **a county** may convey the lands to the state, an incorporated city, a park and recreation district or the United States Government for public use. The conveyance may be made without the payment of compensation, and when so made the county shall

be relieved from any obligation to account for the payment of any taxes, liens or assessments that may have been levied against the lands by any taxing agency, district or municipality authorized to levy taxes against any of the lands.

(c) The [county] governing body of [any] a county may enter into agreements with the state or the United States for the management of the timber and other forest products on the designated county forestlands.

(2) In addition to the methods described in subsection (1) of this section, lands that have been set aside for county forest, public park or recreational area may be alienated, sold or conveyed, in part or in whole, by the public body upon a finding that it is in the best interest of the public. Upon a determination that an alienation, sale or conveyance is in the public interest, the lands set aside may be sold at public or private sale, or other lands may be taken in exchange and set aside for park or recreational purposes. When a sale, an alienation or conveyance takes place, the proceeds shall be held for maintenance and improvement of existing park and recreation lands or future acquisition of lands to be set aside for park or recreational purposes.

(3) Before making an order for an alienation, sale or conveyance of the property without approval at an election, or before entering into agreements for management of timber and other forest products under subsection (1)(c) of this section, the county governing body shall hold a hearing in the county at which objections to the proposed agreements or alienation, sale or conveyance may be heard. Notice of the hearing shall be given by publication weekly for two consecutive weeks in a newspaper circulated generally within the county, and the notice shall describe particularly the property affected.

SECTION 29. ORS 275.335 is amended to read:

275.335. (1) Notwithstanding the provisions of ORS 275.330 or 275.340, [any] **the governing body of a county** [court] may provide for the exchange of land within a designated county forest for other land when in the judgment of the **governing body of the county** [court], supported as provided in subsection (3) of this section, such exchange is for equal value and is in the best interest of the county. Such exchanges shall be authorized under this section only when the land obtained by the county in exchange is immediately incorporated into the designated county forest.

(2) Before making an order for exchange of property, the **governing body of the county** [court] shall hold a hearing [in the county courtroom] at which objections to the proposed exchange of real property may be heard. Notice of the hearing shall be given by publication weekly for two consecutive weeks, or two publications in all, in a newspaper circulated generally within the county, such notice to describe particularly the property affected. The date of hearing shall be not less than five days following the last date of publication of notice.

(3) The exchange authorized in subsection (1) of this section shall be made by order of the **governing body of the county** [court duly entered in its journal] and supported by reports of the value of the properties being exchanged submitted by:

(a) The county assessor; and

(b) The county forester or other qualified agent selected by the governing body.

(4) The exchanges authorized in this section may include any timber on the land involved if the value of such timber is established as provided in subsection (3) of this section.

(5) The **governing body of the county** [court] shall reserve all rights of way in all lands exchanged as provided in subsection (1) of this section to permit proper administration and management of county lands and forests retained or received in exchange by the county.

SECTION 30. ORS 275.360 is amended to read:

275.360. Certified copies of all orders of the **governing bodies of the several counties** [several county courts] made under ORS 275.320 to 275.340 affecting the title or status of real property shall be recorded in the deed records of the county in which such lands are located.

SECTION 31. ORS 275.370 is amended to read:

275.370. All deeds and conveyances of the **governing bodies of the several counties** [several county courts] executed and delivered prior to January 1, 1941, conveying real property theretofore set aside by [such county courts] **the governing bodies of the several counties** as public parks and

recreational areas under ORS 275.320 hereby are validated and declared to be legal and of full force and effect, both in law and in equity.

SECTION 32. ORS 312.260 is amended to read:

312.260. (1) If the title to lands acquired by any county by tax foreclosure was fraudulently concealed from the rightful owner, devisee, beneficiary, heir, creditor or other person having an interest therein, or was unlawfully obtained, held or controlled by or through fraudulent conveyance or other fraud, without knowledge on the part of such person, such person shall be entitled to a conveyance of the lands by purchase from the county [for cash or] by a purchase agreement provided in ORS 275.190 (1) at a price equivalent to the delinquent taxes thereon, with interest and without personal property taxes charged against the land, including lands of which the wrongdoer is owner of record or assignee of owners of record impressed with a trust for the benefit of such person or deeded or assigned to such person by the wrongdoer pursuant to any suit, action, proceeding or settlement respecting the fraudulent concealment or unlawful holding or control.

(2) Such person may cause to be filed with the county clerk of the county at any time while the title to any such lands is held by the county, written notice of intention to purchase the lands or any part thereof under this section, describing the lands. The notice shall be acknowledged and recorded in the deed records and a copy thereof served upon the district attorney of the county. The purchase of the land shall be completed by cash or execution of the agreement within one year from the filing of the notice or the final determination of the suit, action, or proceeding.

(3) This section shall not apply to or affect the title to any such lands dedicated to public use or conveyed by the county prior to the filing of the notice, but shall apply to lands sold by the county to an innocent purchaser under contract, in which case such person succeeds to the interest of the county in the contract subject to the rights of the innocent contract purchaser.

SECTION 33. ORS 275.100 and 275.230 are repealed.

SECTION 34. Section 2 of this 2005 Act, the amendments to statutes by sections 3 to 32 of this 2005 Act and the repeal of statutes by section 33 of this 2005 Act apply to official action of the governing body of a county made on or after the effective date of this 2005 Act.

Passed by Senate February 22, 2005

Repassed by Senate June 2, 2005

.....
Secretary of Senate

.....
President of Senate

Passed by House May 26, 2005

.....
Speaker of House

Received by Governor:

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

Approved:

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

.....
Governor

Filed in Office of Secretary of State:

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

.....
Secretary of State