

A-Engrossed
Senate Bill 1037

Ordered by the Senate May 26
Including Senate Amendments dated May 26

Sponsored by Senator RINGO, Representative GARRARD

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Modifies authority of and procedures for public entity to pay compensation for or to modify, remove or not apply land use regulations that restrict use and reduce fair market value of real property. Modifies provisions authorizing establishment of lot of record dwellings in farm and forest zones.]

Establishes claim process and judicial review process for Ballot Measure 37 (2004) claims. Authorizes establishment of dwelling on certain lands located in farm zones. Distinguishes between high-value farmland, nonhigh-value farmland and nonresource land based on soil classes. Establishes different developmental and Ballot Measure 37 (2004) claim rights based on land classification.

**Modifies special assessment provisions relating to land use.
Takes effect on 91st day following adjournment sine die.**

A BILL FOR AN ACT

1
2 Relating to land use; creating new provisions; amending ORS 197.825, 306.005, 308A.113, 308A.116,
3 308A.318, 308A.368, 308A.430, 308A.703, 308A.706, 308A.707, 308A.712, 308A.718, 308A.727,
4 308A.733, 311.280, 311.370, 311.385, 311.390, 321.359, 321.716, 321.842 and 674.310 and chapter 1,
5 Oregon Laws 2005; and prescribing an effective date.

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

7
8 **TRACT OF RECORD**

9
10 **SECTION 1.** (1) Unless a dwelling is authorized under ORS 215.705, the governing body
11 of a county or its designee may approve an application to establish one single-family dwelling
12 on a tract of land located in a farm zone. A dwelling may be allowed under this section if:

13 (a) The tract does not contain a dwelling;

14 (b) The lot or parcel on which the dwelling will be located was lawfully established;

15 (c) The dwelling complies with the standards for the approval of a dwelling in the zone
16 on the date the person acquired the lot or parcel or, if the lot or parcel was acquired by
17 devise or inheritance, on the date the person's immediate predecessor in interest acquired
18 the lot or parcel;

19 (d) The dwelling will be the person's primary residence in Oregon; and

20 (e) The person has owned the lot or parcel continuously since acquiring the lot or parcel
21 and, if the lot or parcel was acquired by devise or inheritance, the person's immediate
22 predecessor in interest owned the lot or parcel continuously since acquiring the lot or parcel.

23 (2) The governing body of the county may approve only one single-family dwelling for a

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 tract of land as the tract existed on the effective date of this 2005 Act.

2 (3) Before the governing body may approve a single-family dwelling under this section,
3 the governing body of a county shall notify the county assessor that the governing body in-
4 tends to allow the dwelling.

5 (4) If the governing body of a county approves a single-family dwelling under this section,
6 the person who owns the tract must consolidate the remaining lots or parcels in the tract
7 on which the dwelling is allowed into one parcel.

8 (5) The governing body of a county shall notify the State Department of Agriculture of
9 applications for dwellings that are allowed under this section. Notice must be provided in
10 accordance with the governing body's land use regulations.

11
12 **BALLOT MEASURE 37 (2004)**

13
14 **SECTION 2.** Chapter 1, Oregon Laws 2005, is amended to read:

15 *[The following provisions are added to and made a part of ORS chapter 197:]*

16 **SECTION 1.** (1) If a public entity enacts [*or enforces*] a [*new*] land use regulation **after De-**
17 **cember 2, 2004**, or enforces a land use regulation enacted [*prior to the effective date of this amend-*
18 *ment*] **by the public entity before December 2, 2004**, that restricts the use of private real
19 property, or any interest therein, and [*has the effect of reducing the fair*] **reduces the real** market
20 value of the property, or any interest therein, [*then*] the **public entity shall pay compensation to**
21 **the owner** [*of the property shall be paid just compensation*]. **A public entity is not required to pay**
22 **compensation for a land use regulation enacted after the effective date of this 2005 Act un-**
23 **less the land use regulation or regulations, individually or cumulatively, reduce the real**
24 **market value of the property by more than 10 percent.**

25 (2) [*Just*] **The amount of** compensation [*shall be*] **must be** equal to the reduction in the [*fair*]
26 **real** market value of the **entire lot or parcel, or the** affected property interest **therein**, resulting
27 from enactment or enforcement of the land use regulation, **adjusted to current dollars** [*as of the*
28 *date the owner makes written demand for compensation under this act*].

29 (3) Subsection (1) of this [*act shall*] **section does** not apply to land use regulations **that:**

30 [(A)] (a) [*Restricting or prohibiting*] **Restrict or prohibit** activities commonly and historically
31 recognized as public nuisances under common law. This [*subsection shall*] **paragraph must** be con-
32 strued narrowly in favor of a finding of compensation under this [*act*] **section;**

33 [(B)] (b) [*Restricting or prohibiting activities for the protection of*] **Protect** public health and
34 safety, [*such as*] **including** fire [*and*] **codes**, building codes, **flood plain regulations, erosion and**
35 **landslide protection regulations**, health and sanitation regulations, solid or hazardous waste
36 regulations[,] and pollution control regulations;

37 [(C)] (c) [*To the extent the land use regulation is required*] **Are reasonably necessary** to comply
38 with federal law;

39 [(D)] (d) [*Restricting or prohibiting*] **Restrict or prohibit** the use of [*a*] property for the purpose
40 of selling pornography or performing nude dancing. Nothing in this [*subsection, however, is intended*
41 *to affect or alter*] **paragraph affects or alters** rights provided by the Oregon or United States
42 [*Constitutions*] **Constitution;** [*or*]

43 [(E)] (e) **Are** enacted [*prior to*] **before** the date of acquisition of the property by the owner, or
44 **by** a family member of the owner who owned the subject property [*prior to*] **before** acquisition or
45 inheritance by the owner, whichever occurred first[.];

1 **(f) Apply to coastal shorelands, estuaries, beaches or dunes as defined by the Land Con-**
2 **servation and Development Commission;**

3 **(g) Apply within the Steens Mountain Cooperative Management and Protection Area,**
4 **Sheldon-Hart Mountain National Wildlife Refuge Complex or Malheur National Wildlife Ref-**
5 **uge; or**

6 **(h) Apply within designated scenic waterways and related adjacent lands as defined by the**
7 **State Parks and Recreation Commission.**

8 (4) *[Just]* Compensation under *[subsection (1) of]* this *[act shall be]* **section** is due the owner *[of*
9 *the property]* if the land use regulation continues to *[be enforced against]* **apply to** the property 180
10 days after the owner *[of the property]* makes written demand for compensation under this section
11 *[to the public entity enacting or enforcing the land use regulation].*

12 *[(5) For claims arising from land use regulations enacted prior to the effective date of this act,*
13 *written demand for compensation under subsection (4) shall be made within two years of the effective*
14 *date of this act, or the date the public entity applies the land use regulation as an approval criteria to*
15 *an application submitted by the owner of the property, whichever is later. For claims arising from land*
16 *use regulations enacted after the effective date of this act, written demand for compensation under*
17 *subsection (4) shall be made within two years of the enactment of the land use regulation, or the date*
18 *the owner of the property submits a land use application in which the land use regulation is an ap-*
19 *proval criteria, whichever is later.]*

20 **(5)(a) A demand for compensation based on a land use regulation enacted:**

21 **(A) Before the effective date of this 2005 Act must be filed within 180 days after the ef-**
22 **fective date of this 2005 Act.**

23 **(B) On or after the effective date of this 2005 Act must be filed within two years after**
24 **the date the land use regulation is enacted, except as provided in subparagraph (C) of this**
25 **paragraph.**

26 **(C) On or after the effective date of this 2005 Act that is used as an approval criterion**
27 **on a land use application must be filed within 60 days after the date a decision on the land**
28 **use application becomes final.**

29 **(b) Notwithstanding paragraph (a)(C) of this subsection, a land use regulation may not**
30 **be the basis of a demand for compensation more than five years after the date the regulation**
31 **is enacted.**

32 *[(6) If a land use regulation continues to apply to the subject property more than 180 days after the*
33 *present owner of the property has made written demand for compensation under this act, the present*
34 *owner of the property, or any interest therein, shall have a cause of action for compensation under this*
35 *act in the circuit court in which the real property is located, and the present owner of the real property*
36 *shall be entitled to reasonable attorney fees, expenses, costs, and other disbursements reasonably in-*
37 *curring to collect the compensation.]*

38 *[(7) A metropolitan service district, city, or county, or state agency may adopt or apply procedures*
39 *for the processing of claims under this act, but in no event shall these procedures act as a prerequisite*
40 *to the filing of a compensation claim under subsection (6) of this act, nor shall the failure of an owner*
41 *of property to file an application for a land use permit with the local government serve as grounds for*
42 *dismissal, abatement, or delay of a compensation claim under subsection (6) of this act.]*

43 **(6) A demand for compensation under this section must be filed with the public entity**
44 **that enacted the land use regulation as provided in section 5 of this 2005 Act.**

45 *[(8)] (7) Notwithstanding any other state statute or the availability of funds under subsection*

1 (10) of this *[act]* **section**, in lieu of *[payment of just]* **paying** compensation under this *[act]* **section**,
 2 the *[governing body responsible for enacting]* **public entity that enacted** the land use regulation
 3 may *[modify, remove, or not to apply]* **waive** the land use regulation or land use regulations *[to allow*
 4 *the owner to use the property for]* **enacted by the public entity to allow** a use permitted *[at the*
 5 *time]* **when** the owner acquired the property.

6 **(8) Property that is subject to a decision to waive a land use regulation may be trans-**
 7 **ferred once to a person who then retains the right to use the property based on the decision.**

8 **(9) Except as provided in section 7 of this 2005 Act, a decision to provide compensation**
 9 **or to waive a land use regulation under this section is not a land use decision subject to re-**
 10 **view under ORS 197.805 to 197.855.**

11 *[(9) A decision by a governing body under this act shall not be considered a land use decision as*
 12 *defined in ORS 197.015 (10).]*

13 (10) *[Claims]* **Compensation** *[made]* under this section *[shall]* **must** be paid from funds, if any,
 14 specifically allocated by the *[legislature]* **Legislative Assembly, a city, a county[,]** or a metropolitan
 15 service district for payment of *[claims]* **compensation** under this *[act]* **section**. Notwithstanding the
 16 availability of funds under this subsection **specifically allocated for payment of compensation**, a
 17 metropolitan service district, city, county[,] or state agency *[shall have discretion to]* **may use any**
 18 available funds to *[pay claims]* **make payment on a demand for compensation**. *[or to modify, re-*
 19 *move, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this act.*
 20 *If a claim has not been paid within two years from the date on which it accrues, the owner shall be*
 21 *allowed to use the property as permitted at the time the owner acquired the property.]* **An owner may**
 22 **use property as permitted when the owner acquired the property if compensation is not paid**
 23 **within two years after the later of:**

24 **(a) The date the public entity issues a final decision on the demand; or**

25 **(b) The date a court enters a judgment no longer subject to appeal that orders payment**
 26 **of compensation.**

27 *[(11) Definitions - for purposes of this section:]*

28 *[(A) "Family member" shall include the wife, husband, son, daughter, mother, father, brother,*
 29 *brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle,*
 30 *niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate*
 31 *of any of the foregoing family members, or a legal entity owned by any one or combination of these*
 32 *family members or the owner of the property.]*

33 *[(B) "Land use regulation" shall include:]*

34 *[(i) Any statute regulating the use of land or any interest therein;]*

35 *[(ii) Administrative rules and goals of the Land Conservation and Development Commission;]*

36 *[(iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and*
 37 *transportation ordinances;]*

38 *[(iv) Metropolitan service district regional framework plans, functional plans, planning goals and*
 39 *objectives; and]*

40 *[(v) Statutes and administrative rules regulating farming and forest practices.]*

41 *[(C) "Owner" is the present owner of the property, or any interest therein.]*

42 *[(D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.]*

43 **(11) The division and use of property pursuant to a decision by a public entity to waive**
 44 **a land use regulation under this section must comply with all other applicable land use reg-**
 45 **ulations that are consistent with the decision.**

1 [(12)] (12) The remedy created by this [act] **section** is in addition to any other remedy under the
2 Oregon or United States [Constitutions, and is not intended to] **Constitution and does not** modify
3 or replace any other remedy.

4 [(13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction,
5 the remaining portions of this act shall remain in full force and effect.]

6
7 **DEFINITIONS**

8
9 **SECTION 3.** As used in sections 3 to 10 of this 2005 Act and section 1, chapter 1, Oregon
10 **Laws 2005 (Ballot Measure 37 (2004)):**

11 (1) **“Family member” means:**

12 (a) **The wife, husband, son, daughter, mother, father, brother, brother-in-law, sister,**
13 **sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece,**
14 **nephew, stepparent, stepchild, grandparent or grandchild of the owner;**

15 (b) **An estate of a family member described in paragraph (a) of this subsection;**

16 (c) **A business entity wholly owned by a family member described in paragraph (a) of this**
17 **subsection; or**

18 (d) **A business entity wholly owned by the owner.**

19 (2) **“Land use regulation” means:**

20 (a) **A land use regulation as defined in ORS 197.015;**

21 (b) **A comprehensive plan as defined in ORS 197.015;**

22 (c) **The Metro regional framework plan as defined in ORS 197.015;**

23 (d) **Metro planning goals and objectives as defined in ORS 197.015;**

24 (e) **A functional plan of a metropolitan service district;**

25 (f) **A statewide land use planning goal or administrative rule adopted by the Land Con-**
26 **servation and Development Commission;**

27 (g) **A statute that establishes a minimum lot or parcel size;**

28 (h) **Provisions in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 and 227.500 and ORS**
29 **chapters 215 and 268 regulating the use of property;**

30 (i) **Provisions in ORS 527.610 to 527.770, 527.990 and 527.992 regulating the use of property**
31 **and administrative rules of the State Board of Forestry implementing the provisions; and**

32 (j) **Statutes regulating the use of property in ORS chapter 561 and administrative rules**
33 **implementing the statutes.**

34 (3) **“Owner” means the legal owner or owners of fee title of record to property or, if a**
35 **recorded land sale contract is in force, the purchaser or purchasers of fee title to property**
36 **under the contract.**

37 (4) **“Property” means private real property that is the subject of a demand for compen-**
38 **sation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)).**

39 (5) **“Public entity” means the state, a metropolitan service district, a city or a county.**

40 (6) **“Waive” means a decision to:**

41 (a) **Not apply a land use regulation to the owner’s use of the property; or**

42 (b) **Modify the manner in which a land use regulation applies to the owner’s use of the**
43 **property.**

44 **NOTE:** Section 4 was deleted by amendment. Subsequent sections were not renumbered.
45

BALLOT MEASURE 37 (2004) CLAIM PROCESS

SECTION 5. (1) An owner may file a demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)) only in the manner provided by this section. If the property has more than one owner, the demand must be signed by all owners or the demand must include a signed statement of consent from each owner who does not sign the demand.

(2) An owner must file a demand under this section with each public entity that enacted a land use regulation that is the subject of the demand. For a single tract of land, an owner may file only one demand with each public entity for all land use regulations enacted by the public entity and in effect when the demand is filed.

(3) An owner may withdraw a demand at any time before issuance of a final decision on the demand or the expiration of the 180-day period described in subsection (5) of this section, whichever is earlier. Subject to the limitation of section 1 (5), chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), the owner may thereafter refile the demand.

(4) If the demand is made against a state agency or the Legislative Assembly, the demand must be filed with the Oregon Department of Administrative Services. If the demand is made against a city, county or metropolitan service district, the demand must be filed with the chief administrative officer of the city, county or district, or with another person designated by ordinance of the city, county or district.

(5) A public entity shall issue a final decision on a demand filed under this section within 180 days after receiving a complete demand as described in this section. If the decision is not issued within the time allowed by this subsection, the demand is deemed denied.

(6) A demand for compensation must be in writing and must include:

(a) The name and address of each owner;

(b) The address, if any, and tax lot number of the property;

(c) For each owner, evidence of ownership of the property;

(d) Evidence of the date each owner acquired the property;

(e) If the demand is based on family relationship, evidence that the property has been owned continuously by a family member as required by section 1, chapter 1, Oregon Laws 2005 (Ballot Measure (2004));

(f) A list or description of the land use regulations that the owner claims restrict the use of the property that is adequate to allow the public entity to identify the specific regulations that are the basis for the demand;

(g) For each land use regulation identified in paragraph (f) of this subsection, a description of the manner in which the land use regulation restricts the use of the property, and a description of the uses allowed when each owner or the relevant family member of each owner acquired the property;

(h) Evidence that the land use regulations identified in paragraph (f) of this subsection have reduced the real market value of the property, which may include a statement of reduction in real market value prepared in a manner consistent with the rules of the Appraiser Certification and Licensure Board;

(i) A description of the owner's proposed use of the property in the event the public entity elects to waive a land use regulation in lieu of paying compensation; and

(j) Any fee required by the public entity.

1 (7) The public entity shall review a demand filed under this section to determine whether
2 the demand complies with subsection (6) of this section. If the demand is incomplete, the
3 public entity shall notify the owner in writing of the information that is missing within 30
4 days after receiving the demand and allow the owner to submit the missing information. The
5 demand is complete for the purpose of subsection (5) of this section when the public entity
6 receives:

7 (a) The missing information;

8 (b) Part of the missing information and written notice from the owner that the remain-
9 der of the missing information will not be provided; or

10 (c) Written notice from the owner that none of the missing information will be provided.

11 (8) If a public entity does not notify an owner within 30 days after receiving a demand
12 that information is missing from the demand, the demand is complete for the purpose of
13 subsection (5) of this section when the demand is received.

14 (9) A demand filed under this section is void if the public entity gives notice to the owner
15 under subsection (7) of this section and the owner does not submit to the public entity within
16 180 days after the demand was filed:

17 (a) The missing information;

18 (b) Part of the missing information and written notice that the remainder of the missing
19 information will not be provided; or

20 (c) Written notice that none of the missing information will be provided.

21 (10) A public entity may extend the 180-day period described in subsection (5) of this
22 section for specified periods of time at the written request of the owner. The total of all ex-
23 tensions granted by a public entity may not exceed 185 days.

24 **SECTION 6.** (1) A public entity that receives a complete demand for compensation as
25 described in section 5 of this 2005 Act shall provide notice of the demand to:

26 (a) All owners of the property;

27 (b) All persons described in ORS 197.763 (2);

28 (c) The Oregon Department of Administrative Services; and

29 (d) Other public entities that have enacted a land use regulation that applies to the
30 property.

31 (2) The notice required under subsection (1) of this section must state:

32 (a) Whether a public hearing will be held on the demand and the date, time and location
33 of any hearing;

34 (b) That judicial review of the public entity's final decision on the demand is limited to
35 the evidence, testimony and arguments submitted to the public entity; and

36 (c) That judicial review is available only for issues that are raised with sufficient
37 specificity to afford the public entity an opportunity to respond.

38 (3) Except as provided in subsection (4) of this section, evidence, testimony and argu-
39 ments in proceedings on the demand must be submitted to the public entity not later than:

40 (a) The close of the final public hearing on the demand; or

41 (b) If a public hearing is not held, a date that is specified by the public entity in the no-
42 tice given under subsection (1) of this section.

43 (4) The owner who filed the demand may request additional time to submit evidence,
44 testimony or arguments. The request must be made before the close of the final public
45 hearing on the demand or the date established for submission of evidence, testimony and

1 arguments. If a public entity allows the owner additional time to submit evidence, testimony
2 and arguments, the public entity shall allow members of the public an equal period of time
3 to submit responsive evidence, testimony and arguments. Additional time provided under this
4 subsection tolls the 180-day period described in section 5 (5) of this 2005 Act.

5 (5) A public entity shall make the record on review of a demand, including any staff re-
6 ports, available to the public before the close of the record as described in subsections (3)
7 and (4) of this section.

8 (6) A public entity may establish a fee for reviewing a demand in an amount that is no
9 more than the actual or average cost of the review.

10 (7) A public entity may grant relief under section 1, chapter 1, Oregon Laws 2005 (Ballot
11 Measure 37 (2004)), only if, based on the record, the public entity determines:

12 (a) The demand complies with section 5 (6) of this 2005 Act;

13 (b) A land use regulation specified in the demand imposes a restriction on the owner's
14 use of the property that did not exist when the owner or a family member of the owner ac-
15 quired the property;

16 (c) The restriction on the owner's use of the property caused by the land use regulation
17 reduces the real market value of the property; and

18 (d) The land use regulation is not exempt under section 1 (3), chapter 1, Oregon Laws
19 2005 (Ballot Measure 37 (2004)).

20 (8) A public entity shall provide a copy of the final decision by certified mail to the owner
21 who filed the demand and to the persons who submitted evidence, testimony or arguments
22 into the record.

23 (9) A public entity may waive a land use regulation even if funds are available for the
24 payment of compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37
25 (2004)).

26 (10) A state agency may waive a statutory land use regulation if the state agency is re-
27 sponsible for administering the statute. If a demand is filed based on a statute that is not
28 administered by a state agency, the Oregon Department of Administrative Services may
29 waive the statutory land use regulation.

30 (11) If a public entity waives one or more land use regulations in lieu of paying compen-
31 sation, any subsequent decision by a public entity relating to a license, permit or other au-
32 thorization for the owner to use the property must be based on land use regulations that
33 have not been waived.

34 (12) If a public entity decides to waive one or more land use regulations in lieu of paying
35 compensation, the waiver expires 10 years after the date of the final decision unless the
36 proposed use identified in the demand is substantially implemented within the 10-year period.

37 **SECTION 7.** (1) An owner may submit a land use application at the same time the owner
38 files a demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot
39 Measure 37 (2004)). The filing and review of the demand for compensation must comply with
40 the requirements of sections 5 and 6 of this 2005 Act. Submission and review of the land use
41 application must comply with all other applicable laws.

42 (2) A city or county may elect to exclude the time required to issue a final decision on
43 the demand filed under this section from the 120-day or 150-day period for taking final action
44 under ORS 215.427 or 227.178.

45 (3) If the city or county elects to waive a land use regulation in lieu of paying compen-

1 sation when an owner submits a land use application and files a demand for compensation
2 under this section, the land use application must be approved or denied based on land use
3 regulations that have not been waived. Notwithstanding section 1 (5), chapter 1, Oregon
4 Laws 2005 (Ballot Measure 37 (2004)), and section 8 of this 2005 Act:

5 (a) A final decision on the demand for compensation under this section is not subject to
6 judicial review until the city or county takes final action on the land use application; and

7 (b) The final decision on the demand for compensation and the final action on the land
8 use application are subject to review in the manner provided in ORS 197.805 to 197.855.

9 (4) If a city or county decides that compensation is not due on a demand filed under this
10 section, the city or county may discontinue further review of the land use application until
11 any appeal of the final decision on the demand for compensation is reduced to a judgment
12 that is no longer subject to appeal. The 120-day or 150-day period described in ORS 215.427
13 or 227.178 is tolled by a decision to discontinue further review of the land use application
14 under this subsection.

15 (5) If a city or county decides that compensation is not due on a demand filed under this
16 section, the final decision is subject to review in the circuit court as provided in section 8
17 of this 2005 Act.

18
19 **JUDICIAL REVIEW**
20

21 **SECTION 8.** (1) The circuit court has exclusive jurisdiction to review a final decision by
22 a public entity on a demand for compensation under section 1, chapter 1, Oregon Laws 2005
23 (Ballot Measure 37 (2004)).

24 (2) A person may seek judicial review of a final decision on a demand for compensation
25 issued by a public entity under sections 5, 6 and 7 of this 2005 Act by filing a petition in the
26 circuit court for the county in which the property is located and serving a copy of the peti-
27 tion on the public entity in the manner provided by ORCP 7. The petition must be filed and
28 served within 21 days after a written final decision by the public entity.

29 (3) The petitioner shall provide notice of the petition by certified mail to the persons who
30 submitted evidence, testimony or arguments into the record before the public entity. A per-
31 son to whom notice is sent may intervene by motion filed with the court within 21 days after
32 the date the notice is mailed.

33 (4) A public entity shall file a certified copy of the record with the court within 21 days
34 after the date the public entity is served with a copy of the petition. The court may extend
35 the period for filing the record upon motion by the public entity.

36 (5) When a public entity files the record with the court under subsection (4) of this sec-
37 tion, the public entity shall provide a certified copy of the record to the petitioner. The
38 petitioner may object to the record by motion filed with the court within 14 days after receipt
39 of the copy of the record from the public entity. The public entity may file a motion in re-
40 sponse to the objection within 14 days after the date the objection is filed with the court.
41 The court may extend the deadlines under this subsection or request additional briefing on
42 the objection. The court shall resolve objections to the record and notify the parties of the
43 date the record is final.

44 (6) The petitioner's opening brief and the opening brief of any person who intervenes in
45 support of the petitioner must be filed with the court within 28 days after the date the record

1 is final. Respondent's brief and the response brief of any person who intervenes in support
2 of the respondent must be filed with the court within 28 days after the date the petitioner's
3 opening brief is filed. The court may allow additional briefing.

4 (7) Briefs filed under subsection (6) of this section must contain a statement indicating
5 whether the party requests oral argument. If a party requests oral argument, the court shall
6 set the case for argument within 28 days after the date the respondent's brief is filed. The
7 court must decide the case based on the record before the public entity, the briefing and the
8 oral argument made to the court, without further testimony or evidence.

9 (8) Judicial review of a public entity's final decision on a demand for compensation is
10 limited to the evidence, testimony and arguments submitted to the public entity. Judicial
11 review is available only for issues that are raised before the public entity with sufficient
12 specificity to afford the public entity an opportunity to respond.

13 (9) If a petitioner files two or more petitions under this section for judicial review of final
14 decisions issued by public entities that relate to a single property, the court shall consolidate
15 the petitions into a single action.

16 **SECTION 9.** The circuit court shall affirm the final decision of a public entity on a de-
17 mand for compensation filed under section 5 of this 2005 Act unless the public entity:

18 (1) Exceeded the jurisdiction of the public entity;

19 (2) Failed to follow applicable procedures;

20 (3) Made a finding or order that is not supported by substantial evidence in the whole
21 record;

22 (4) Improperly construed applicable law; or

23 (5) Issued a decision that is unconstitutional.

24 **SECTION 10.** (1) If the circuit court does not affirm the final decision of a public entity
25 on a demand for compensation filed under section 5 of this 2005 Act, or dismiss the petition
26 under subsection (2) of this section, the court shall issue a judgment reversing the final de-
27 cision of the public entity in whole or in part. The judgment must specify the land use reg-
28 ulations that must be waived if the public entity elects to waive land use regulations in lieu
29 of paying compensation.

30 (2) If the court issues a judgment reversing a final decision to waive a land use regulation
31 or to pay compensation because the court concludes relief is not due under section 1, chapter
32 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), the court shall dismiss the petition filed un-
33 der section 8 of this 2005 Act with prejudice.

34 (3) Within 45 days after entry of a judgment under subsection (1) of this section, the
35 public entity shall file notice with the court stating whether the public entity intends to pay
36 compensation or waive the land use regulations specified in the judgment. If the public entity
37 does not file notice under this subsection within 45 days after entry of the judgment, the
38 public entity is deemed to have waived the land use regulations specified in the judgment.

39 (4) Within 90 days after the public entity files notice with the court stating that the
40 public entity intends to pay compensation, the public entity shall obtain an appraisal of the
41 reduction in the real market value of the property and provide a copy of the appraisal to the
42 owner. If the owner objects to the appraisal, the owner may obtain an appraisal and provide
43 a copy to the public entity within 90 days after the date the owner received the public enti-
44 ty's appraisal.

45 (5) If the parties are unable to agree on an amount of compensation after exchanging

1 appraisals as required under subsection (4) of this section, upon motion of either party the
2 court shall schedule the matter for a hearing. The court shall determine the amount of
3 compensation due based on the appraisals and other evidence received by the court.

4
5 **FARMLAND CLASSIFICATIONS**

6
7 **(High-Value Farmland)**

8
9 **SECTION 11.** As used in sections 1 and 11 to 19 of this 2005 Act:

- 10 (1) "Lot" has the meaning given that term in ORS 92.010.
11 (2) "Parcel" has the meaning given that term in ORS 215.010.
12 (3) "Partition" has the meaning given that term in ORS 92.010.
13 (4) "Series partition" has the meaning given that term in ORS 92.305.
14 (5) "Subdivision" has the meaning given that term in ORS 92.010.
15 (6) "The Willamette Valley" has the meaning given that term in ORS 215.010.
16 (7) "Tract" has the meaning given that term in ORS 215.010.

17 **SECTION 12.** (1) For purposes of sections 11 to 19 of this 2005 Act, high-value farmland
18 includes only tracts of land described in this section.

19 (2) Except as described in subsections (3) and (5) of this section, high-value farmland in-
20 cludes tracts of land described in ORS 215.710.

21 (3) In the Willamette Valley, high-value farmland does not include tracts of land de-
22 scribed in ORS 215.710 (3)(a) and (c) unless, on the effective date of this 2005 Act, the tract
23 contained not less than five acres planted in wine grapes, nursery stock or berries.

24 (4) West of U.S. Highway 101, high-value farmland includes tracts of land that are com-
25 posed predominantly of the following soils in Class III or IV or composed predominantly of
26 a combination of the soils described in ORS 215.710 (1) and the following soils:

27 (a) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay
28 Loam;

29 (b) Subclassification IIIe, specifically, Klooqueth Silty Clay Loam and Winchuck Silt
30 Loam; and

31 (c) Subclassification IVw, specifically, Huffling Silty Clay Loam.

32 (5) West of the summit of the Coast Range, high-value farmland does not include tracts
33 of land described in ORS 215.710 (4)(a) and (c).

34 (6) High-value farmland includes tracts of land that are irrigated as of the effective date
35 of this 2005 Act. For purposes of this subsection, land is irrigated if the land is subject to a
36 permit or certificate issued by the Water Resources Department or is within the boundaries
37 of an irrigation district.

38 (7) High-value farmland includes tracts of land growing specified perennials as demon-
39 strated by the most recent aerial photographs taken by the United States Department of
40 Agriculture's Farm Service Agency, National Agriculture Imagery Program. For purposes
41 of this subsection, "specified perennials" means perennials grown for market or research
42 purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees
43 and wine grapes, but not including seed crops, hay, pasture or alfalfa.

44 (8) High-value farmland includes tracts of land located within:

- 45 (a) The Dundee Hills Viticultural Area as described in 27 C.F.R. 9.180;

- 1 (b) The McMinnville Viticultural Area as described in 27 C.F.R. 9.181; and
- 2 (c) The Yamhill-Carlton District Viticultural Area as described in 27 C.F.R. 9.183.

3
4 (Nonresource Land)

5
6 **SECTION 13.** For purposes of sections 11 to 19 of this 2005 Act:

7 (1) Nonresource land includes tracts of land that are zoned for exclusive farm use as of
8 the effective date of this 2005 Act, are outside an urban growth boundary and are composed
9 of soils at least 67 percent of which are in Class VII or VIII.

10 (2) Nonresource land does not include land that is high-value farmland as described in
11 section 12 of this 2005 Act.

12
13 **FARMLAND DIVISIONS AND USES**

14
15 (High-Value Farmland)

16
17 **SECTION 14.** An owner of high-value farmland may file a demand for compensation under
18 section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), only for land use regu-
19 lations that are enacted on or after the effective date of this 2005 Act.

20
21 (Nonhigh-Value Farmland)

22
23 **SECTION 15.** (1) Notwithstanding section 1, chapter 1, Oregon Laws 2005 (Ballot Measure
24 37 (2004)), land use regulations in effect on the effective date of this 2005 Act that restrict
25 use of land that is zoned for farm use and is not high-value farmland are not a basis for a
26 valid demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure
27 37 (2004)).

28 (2) If, except for the provisions of subsection (1) of this section, a land use regulation in
29 effect on the effective date of this 2005 Act that restricts residential use of land that is zoned
30 for farm use and is not high-value farmland would be a basis for a valid demand for com-
31 pensation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), an owner
32 of land that is zoned for farm use and is not high-value farmland may subdivide land or
33 partition land as provided in subsection (3) or (4) this section.

34 (3) The governing body of a city or county may approve an application by an owner of
35 land described in subsection (2) of this section to partition a lot or parcel into parcels not
36 smaller than 20 acres or the minimum parcel size that applied to the land when the owner
37 acquired the land, whichever is larger.

38 (4) Notwithstanding subsection (3) of this section, the governing body of a city or county
39 may approve an application by an owner of land described in subsection (2) of this section
40 to subdivide or partition a tract of land to create the equivalent of one lot or parcel for every
41 10 acres of the tract if:

42 (a) The average size of the new lots or parcels does not exceed two acres;

43 (b) The new lots or parcels are contiguous;

44 (c) Improvements on the new lots or parcels are at least 50 feet from streams and
45 wetlands;

1 (d) Residential structures on the new lots or parcels comply with state and local health
2 and fire safety requirements, including, for dwellings on land zoned forestland, ORS 215.730;
3 and

4 (e) The owner of the tract records in the deed records of the county an irrevocable deed
5 restriction in favor of the city or county that prohibits subsequent subdivision or partition
6 of the remainder of the tract.

7 (5) A land use application filed under this section must contain the information described
8 in section 5 (6) of this 2005 Act.

9 (6) Approval of an application to subdivide or partition a lot, parcel or tract under this
10 section bars the applicant from filing a demand for compensation under section 1, chapter
11 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), for a land use regulation enacted on or before
12 the date the application to subdivide or partition the lot, parcel or tract was filed with the
13 city or county.

14 (7) Improvement of a lot or parcel created under this section must comply with the ap-
15 plicable comprehensive plan and land use regulations.

16 (8) A demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot
17 Measure 37 (2004)), based on the ability to establish a single-family dwelling on land zoned for
18 farm use must be treated as an application for a dwelling under ORS 215.705 or section 1 of
19 this 2005 Act.

20
21 (Nonresource Land)

22
23 **SECTION 16.** (1) The governing body of a city or county may approve an application to
24 rezone land described in section 13 of this 2005 Act as nonresource land. A city or county
25 that approves an application to rezone land for nonresource use under this section shall
26 amend its comprehensive plan and land use regulations to reflect the nonresource desig-
27 nation of the land.

28 (2) Land that is designated by a county as nonresource land as of January 1, 2005, may
29 be designated by the county for use as described in this section. The governing body of a city
30 or county shall amend its comprehensive plan and land use regulations to reflect the
31 nonresource designation of the land.

32 (3) Notwithstanding section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)),
33 an owner of nonresource land may file a demand for compensation under section 1, chapter
34 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), only for land use regulations adopted by a
35 city, county or metropolitan service district that are more restrictive than the requirements
36 of state law.

37 (4) The governing body of a city or county may approve the partition of a lot or parcel
38 of nonresource land into parcels not smaller than 20 acres.

39 (5) Notwithstanding subsection (4) of this section, the governing body of a city or county
40 may approve the subdivision or partition of a tract of nonresource land to create the equiv-
41 alent of one lot or parcel for every 10 acres of the tract if:

42 (a) The average size of the new lots or parcels does not exceed two acres;

43 (b) The new lots or parcels are contiguous;

44 (c) Improvements on the new lots or parcels are at least 50 feet from streams and
45 wetlands;

1 (d) Residential structures on the new lots or parcels comply with state and local health
2 and fire safety requirements, including, for dwellings on land zoned forestland, ORS 215.730;
3 and

4 (e) The owner of the tract records in the deed records of the county an irrevocable deed
5 restriction in favor of the city or county prohibiting subsequent subdivision or partition of
6 the remainder of the tract.

7 (6) The governing body of a city or county may authorize any use of nonresource land
8 consistent with the goals and rules of the Land Conservation and Development Commission
9 regarding urbanization and public facilities. Use of nonresource land is not subject to goals
10 and rules for the protection of farmland and forestland.

11
12 **FORESTLAND DIVISIONS AND USES**

13
14 **SECTION 17.** (1) Notwithstanding section 1, chapter 1, Oregon Laws 2005 (Ballot Measure
15 37 (2004)), land use regulations in effect on the effective date of this 2005 Act that restrict
16 the use of land that is zoned for forest use are not a basis for a valid demand for compen-
17 sation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)).

18 (2) If, except for the provisions of subsection (1) of this section, a land use regulation in
19 effect on the effective date of this 2005 Act that restricts the use of land that is zoned for
20 forest use would be a basis for a valid demand for compensation under section 1, chapter 1,
21 Oregon Laws 2005 (Ballot Measure 37 (2004)), an owner of land that is zoned for forest use
22 may partition one lot or parcel that is not larger than 40 acres pursuant to this section.

23 (3) An application to partition land under this section must contain all of the information
24 described in section 5 (6) of this 2005 Act.

25 (4) The governing body of a city or county shall approve a partition application by an
26 owner of land described in subsection (2) of this section. A dwelling approved on a parcel
27 created under this section must comply with state and local health and fire safety require-
28 ments, including ORS 215.730.

29 (5) An owner may file only one application under subsection (2) of this section.

30
31 **URBAN GROWTH BOUNDARIES**

32
33 **SECTION 18.** Notwithstanding section 1, chapter 1, Oregon Laws 2005 (Ballot Measure
34 37 (2004)), an owner of land inside an urban growth boundary may not file a demand for
35 compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), for a
36 land use regulation enacted before the effective date of this 2005 Act unless the land use
37 regulation:

38 (1) Restricts residential use of land;

39 (2) Was enacted pursuant to rules of the Land Conservation and Development Commis-
40 sion to protect riparian areas, wetlands, wildlife habitat, historic resources or natural areas;

41 (3) Is designed primarily to protect aesthetic qualities or natural character; and

42 (4) Exceeds any minimum resource protections established by the commission for the
43 resource.

44 **SECTION 19.** (1) Notwithstanding section 1, chapter 1, Oregon Laws 2005 (Ballot Measure
45 37 (2004)), for a period of nine months after the effective date of this 2005 Act, a person may

1 not file a demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot
2 Measure 37 (2004)), if the land that is the subject of the demand is located outside an urban
3 growth boundary but within an area determined, at the discretion of the governing body of
4 the city or the metropolitan service district, as follows:

5 (a) For a city with a population of less than 5,000, an area that extends up to one mile
6 beyond the urban growth boundary established by the city;

7 (b) For a city with a population of 5,000 or more, an area that extends up to two miles
8 beyond the urban growth boundary established by the city; or

9 (c) For a metropolitan service district, an area that extends up to two miles beyond the
10 urban growth boundary established by the metropolitan service district.

11 (2) The area described in subsection (1)(c) of this section may not include land located
12 outside Clackamas, Washington and Multnomah Counties.

13 (3) Not more than nine months after the effective date of this 2005 Act, the governing
14 body of the city or metropolitan service district may designate one or more urban growth
15 study areas within an area described in subsection (1) of this section. Notwithstanding sub-
16 section (1) of this section, after the city or district establishes the urban growth study areas,
17 land not included in a study area is subject to section 1, chapter 1, Oregon Laws 2005 (Ballot
18 Measure 37 (2004)), and sections 3 to 10, 11 to 19, 21 and 23 of this 2005 Act.

19 (4) For land located within an urban growth study area, the governing body of a city,
20 county or metropolitan service district may not pay compensation or waive a land use reg-
21 ulation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), until the
22 earlier of:

23 (a) January 1, 2015; or

24 (b) The date the city or metropolitan service district makes a final decision to expand the
25 urban growth boundary to include land in a study area and declares that the remaining land
26 in the study area is not needed for urban growth boundary expansion until after January 1,
27 2015.

28 (5) Before January 1, 2015, and in lieu of a valid demand for compensation under section
29 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), an owner of land in an urban
30 growth study area may partition the land into parcels not smaller than 20 acres. The city
31 or county may not authorize a series partition of the land.

32 (6) On or after January 1, 2015, or the date the city or metropolitan service district ex-
33 pands the urban growth boundary as described in subsection (4)(b) of this section, whichever
34 is earlier:

35 (a) Land not brought into the urban growth boundary is subject to section 1, chapter 1,
36 Oregon Laws 2005 (Ballot Measure 37 (2004)), and sections 3 to 10, 11 to 19, 21 and 23 of this
37 2005 Act; and

38 (b) Land brought into the urban growth boundary is subject to section 18 of this 2005 Act.

39 (7) Designation of urban growth study areas by a city or metropolitan service district
40 under this section is not subject to administrative or judicial review.

41
42 MISCELLANEOUS

43
44 SECTION 20. Section 21 of this 2005 Act is added to and made a part of ORS 215.402 to
45 215.438.

1 **SECTION 21.** (1) Notwithstanding ORS 537.545 (1)(c), the governing body of a county may
2 not approve a permit for residential development that will consume more than 500 gallons
3 of ground water per day per residential unit for domestic purposes.

4 (2) This section applies to any permit for residential construction:

5 (a) Authorized pursuant to a waiver of state or local land use regulations under section
6 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004));

7 (b) In an area designated for nonresource use under section 16 of this 2005 Act;

8 (c) In a ground water limited area designated by the Water Resources Commission; or

9 (d) In a critical ground water area designated by the Water Resources Commission.

10 **SECTION 22.** Section 23 of this 2005 Act is added to and made a part of ORS 227.160 to
11 227.186.

12 **SECTION 23.** (1) Notwithstanding ORS 537.545 (1)(c), the governing body of a city may
13 not approve a permit for residential development that will consume more than 500 gallons
14 of ground water per day per residential unit for domestic purposes.

15 (2) This section applies to any permit for residential construction:

16 (a) Authorized pursuant to a waiver of state or local land use regulations under section
17 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004));

18 (b) In an area designated for nonresource use under section 16 of this 2005 Act;

19 (c) In a ground water limited area designated by the Water Resources Commission; or

20 (d) In a critical ground water area designated by the Water Resources Commission.

21 **SECTION 24.** Sections 21 and 23 of this 2005 Act apply to all permit applications filed on
22 or after the effective date of this 2005 Act.

23 **SECTION 24a.** ORS 197.825 is amended to read:

24 197.825. (1) Except as provided in ORS 197.320 and subsections (2) and (3) of this section, the
25 Land Use Board of Appeals *[shall have]* **has** exclusive jurisdiction to review *[any]* **in the manner**
26 **provided in ORS 197.830 to 197.845:**

27 (a) A land use decision or limited land use decision of a local government, special district or
28 *[a]* state agency *[in the manner provided in ORS 197.830 to 197.845]; or*

29 (b) **Except as provided in section 7 (5) of this 2005 Act, a final decision of a city or county**
30 **issued under section 7 of this 2005 Act.**

31 (2) The jurisdiction of the board:

32 (a) Is limited to those cases in which the petitioner has exhausted all remedies available by right
33 before petitioning the board for review;

34 (b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Ap-
35 peals;

36 (c) Does not include those matters over which the Department of Land Conservation and De-
37 velopment or the Land Conservation and Development Commission has review authority under ORS
38 197.251, 197.430, 197.445, 197.450, 197.455 and 197.628 to 197.650;

39 (d) Does not include those land use decisions of a state agency over which the Court of Appeals
40 has jurisdiction for initial judicial review under ORS 183.400, 183.482 or other statutory provisions;

41 (e) Does not include any rules, programs, decisions, determinations or activities carried out un-
42 der ORS 527.610 to 527.770, 527.990 (1) and 527.992;

43 (f) Is subject to ORS 196.115 for any county land use decision that may be reviewed by the
44 Columbia River Gorge Commission pursuant to sections 10(c) or 15(a)(2) of the Columbia River
45 Gorge National Scenic Area Act, P.L. 99-663; and

1 (g) Does not include review of expedited land divisions under ORS 197.360.

2 (3) Notwithstanding subsection (1) of this section, the circuit courts of this state retain juris-
3 diction:

4 (a) To grant declaratory, injunctive or mandatory relief in proceedings arising from decisions
5 described in ORS 197.015 (10)(b) or proceedings brought to enforce the provisions of an adopted
6 comprehensive plan or land use regulations; and

7 (b) To enforce orders of the board in appropriate proceedings brought by the board or a party
8 to the board proceeding resulting in the order.

9 **SECTION 24b. For purposes of section 1, chapter 1, Oregon Laws 2005 (Ballot Measure**
10 **37 (2004)), the Oregon Department of Administrative Services shall adopt rules for appraisals**
11 **and other evidence of property value to establish whether a land use regulation that restricts**
12 **the use of property that is subject to a demand for compensation reduces the real market**
13 **value of the property.**

14 **SECTION 24c.** ORS 674.310 is amended to read:

15 674.310. (1) The Appraiser Certification and Licensure Board shall:

16 (a) Have the power to do all things necessary and convenient to carry into effect the provisions
17 of this chapter and the federal Act and to regulate the activities of state licensed appraisers and
18 state certified appraisers to ensure that all real estate appraisals conform to the law in effect on
19 the date of the real estate appraisal activity.

20 (b) Certify and license appraisers as necessary to carry out the federal Act and the purposes set
21 forth in ORS 674.010.

22 (c) Supervise the activities of state certified and state licensed appraisers as provided in this
23 chapter, to ensure that they perform all real estate appraisal activity in strict conformance with the
24 provisions of this chapter and of the federal Act, and that they otherwise comply with the provisions
25 of this chapter in the conduct of their professional activities.

26 (d) Establish, keep current and, no less than annually, transmit to the Appraisal Subcommittee
27 a roster listing state certified appraisers and state licensed appraisers.

28 (e) Collect and remit annual registry fees as required by ORS 674.330.

29 (2) All rules adopted by the board to govern real estate appraiser certification and licensure
30 shall conform in all respects with the requirements of the federal Act. The board shall adopt rules
31 including but not limited to:

32 (a) Establishing programs for the certification and licensure of individuals who engage in real
33 estate appraisal activity.

34 (b) Establishing educational requirements for certification and licensure of appraisers that en-
35 sure protection of the public interest and comply in all respects with the requirements of the federal
36 Act. Education requirements for state certified appraisers shall specifically meet the minimum cri-
37 teria established by the Appraiser Qualification Board of the Appraisal Foundation.

38 (c) Establishing a professional code of responsibility for state certified appraisers and state li-
39 censed appraisers that is in conformance with the federal Act.

40 (d) Providing for registration of out-of-state appraisers as provided for under ORS 674.120.

41 **(3) For purposes of section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)), the**
42 **Appraisal Certification and Licensure Board shall adopt rules for the preparation and deliv-**
43 **ery of a statement of reduction in real market value by a state licensed or state certified**
44 **appraiser consistent with the rules adopted by the Oregon Department of Administrative**
45 **Services under section 24b of this 2005 Act.**

1 306.005. As used in the laws of this state relating to the assessment, levy, collection and review
2 of ad valorem taxes, unless the context otherwise requires:

3 (1) "Assessor" includes, in a county having a county charter, the individual or officer performing
4 thereunder the duties imposed upon assessors with respect to ad valorem taxes by the laws of this
5 state.

6 (2) "Clerk" or "county clerk" includes, in a county having a county charter, the individual or
7 officer performing thereunder the duties imposed upon county clerks with respect to ad valorem
8 taxes by the laws of this state.

9 (3) "Court" or "county court" includes, in a county having a county charter, the body perform-
10 ing thereunder the duties imposed upon county courts with respect to ad valorem taxes by the laws
11 of this state.

12 (4) **"Land use regulating entity" means this state, a subdivision of this state, a county,**
13 **a city or a metropolitan service district.**

14 (5) **"Land use waiver" means a decision by a land use regulating entity to modify or not**
15 **apply a land use regulation under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37**
16 **(2004)).**

17 [(4)] (6) "Sheriff" includes, in a county having a county charter, the individual or officer per-
18 forming thereunder the duties imposed upon sheriffs with respect to ad valorem taxes by the laws
19 of this state.

20 [(5)] (7) "Tax collector" includes, in a county having a county charter, the individual or officer
21 performing thereunder the duties imposed upon tax collectors with respect to ad valorem taxes by
22 the laws of this state.

23 [(6)] (8) "Treasurer" includes, in a county having a county charter, the individual or officer
24 performing thereunder the duties imposed upon treasurers with respect to ad valorem taxes by the
25 laws of this state.

26
27 **(Disqualification)**
28

29 **SECTION 26.** ORS 308A.113 is amended to read:

30 308A.113. (1) Land within an exclusive farm use zone shall be disqualified from special assess-
31 ment under ORS 308A.062 by:

32 (a) Removal of the special assessment by the assessor upon the discovery that the land is no
33 longer being used as farmland;

34 (b) Removal of the land from any exclusive farm use zone; *[or]*

35 (c) Establishing a nonfarm dwelling on the land under ORS 215.236; **or**

36 **(d) Approval by a land use regulating entity of a land use waiver that applies to the**
37 **land.**

38 (2) Notwithstanding subsection (1)(a) of this section, the county assessor shall not disqualify land
39 that has been receiving special assessment if the land is not being farmed because:

40 (a) The effect of flooding substantially precludes normal and reasonable farming during the year;
41 **or**

42 (b) Severe drought conditions are declared under ORS 536.700 to 536.780.

43 (3)(a) Notwithstanding ORS 308.210, 308A.062, 311.405 or 311.410, if disqualification occurs as a
44 result of the discovery that the land is no longer in farm use, then, regardless of when during the
45 assessment year discovery is actually made, disqualification by the county assessor shall occur as

1 of the January 1 assessment date of the assessment year in which discovery is made.

2 (b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required
3 under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which
4 the disqualification of the land is asserted.

5 (4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to
6 308A.733.

7 **SECTION 27.** ORS 308A.116 is amended to read:

8 308A.116. (1) Nonexclusive farm use zone farmland qualified for special assessment under ORS
9 308A.068 shall be disqualified from such special assessment upon:

10 (a) Notification by the taxpayer to the assessor to remove the special assessment;

11 (b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

12 (c) Removal of the special assessment by the assessor upon the discovery that the land is no
13 longer in farm use for failure to meet the income requirements under ORS 308A.071 or is no longer
14 in farm use; *[or]*

15 (d) The act of recording a subdivision plat under the provisions of ORS chapter 92; **or**

16 (e) **Approval by a land use regulating entity of a land use waiver that applies to the**
17 **land.**

18 (2) The county assessor shall not disqualify the land that has been receiving special assessment
19 upon the sale or transfer to a new owner or transfer by reason of death of a former owner to a new
20 owner if the land continues to be used solely for farm use.

21 (3) When, for any reason, the land or any portion thereof ceases to be used solely for farm use,
22 the owner at the time of the change in use shall notify the assessor of the change prior to the next
23 January 1 assessment date.

24 (4) If under subsection (1)(d) of this section, the county assessor disqualifies land for special
25 assessment upon the act of platting the land, the land, or a part of the land, may be requalified for
26 special assessment upon:

27 (a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

28 (b) Submission by the owner of an application for special assessment under ORS 308A.077;

29 (c) Meeting all of the qualifications for farm use special assessment under ORS 308A.068; and

30 (d) Meeting the requirements, if any, of applicable local government zoning ordinances with re-
31 gard to minimum lot or parcel acreage for farm use.

32 (5) The county assessor shall not disqualify land that has been receiving special assessment if
33 the land is not being farmed because:

34 (a) The effect of flooding substantially precludes normal and reasonable farming during the year;
35 **or**

36 (b) Severe drought conditions are declared under ORS 536.700 to 536.780.

37 (6)(a) Notwithstanding ORS 308.210, 308A.068, 311.405 or 311.410, if disqualification occurs as a
38 result of the discovery that the land is no longer in farm use, then, regardless of when during the
39 assessment year discovery is actually made, disqualification by the county assessor shall occur as
40 of the January 1 assessment date of the assessment year in which discovery is made.

41 (b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required
42 under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which
43 the disqualification of the land is asserted.

44 (7) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to
45 308A.733.

1 **SECTION 28.** ORS 308A.318 is amended to read:

2 308A.318. (1) When land has once been classified under ORS 308A.300 to 308A.330, it shall re-
3 main under such classification and it shall not be applied to any other use than as open space
4 unless:

5 **(a) The land is** withdrawn from classification as provided in subsection (2) of this section, ex-
6 cept that if the use as open space land changes from one open space use to another open space use,
7 such as a change from park purposes to golf course land, the owner shall notify the assessor of such
8 change prior to the next January 1 assessment date; **or**

9 **(b) A land use regulating entity approves a land use waiver that applies to the land.**

10 (2)(a) During any year after classification, notice of request for withdrawal may be given by the
11 owner to the county assessor or assessors of the county or counties in which such land is situated.

12 **(b) When an event described in subsection (1)(a) of this section occurs,** the county assessor
13 [*or assessors, as the case may be,*] shall withdraw [*such*] **the** land from [*such*] classification[,] and
14 immediately shall give written notice of the withdrawal to the granting authority that classified the
15 land[; *and*]. Additional [*real property*] taxes shall be collected on [*such*] **the** land in an amount equal
16 to the total amount of potential additional taxes computed under ORS 308A.312 (3) during each year
17 in which the land was classified, together with interest at the rate of two-thirds of one percent a
18 month, or fraction of a month, from the dates on which [*such*] **the** additional taxes would have been
19 payable had the land not been so classified, limited to a total amount not in excess of the dollar
20 difference in the value of the land as open space land for the last year of classification and the real
21 market value under ORS 308.205 for the year of withdrawal.

22 **(c) When an event described in subsection (1)(b) of this section occurs, the county**
23 **assessor shall withdraw the land from classification and immediately shall give written no-**
24 **tice of the withdrawal to the granting authority that classified the land. Additional taxes**
25 **shall be collected on the land in an amount equal to the total amount of potential additional**
26 **taxes computed under ORS 308A.312 (3) for the greater of:**

27 **(A) The period of time for which the additional taxes are collected under paragraph (b)**
28 **of this subsection; or**

29 **(B) The number of years for which, as of the assessment date, the person receiving a**
30 **land use waiver has owned the land that is the subject of the waiver.**

31 (3) If the owner fails to give the notice required under subsection (1)(a) of this section during
32 the period of classification, upon withdrawal under subsection (2) of this section, the assessor shall
33 add to the tax extended against the land previously classified, an amount, if any, equal to the addi-
34 tional taxes that would have been collected had the assessor valued the classified land on the basis
35 of the changed open space use, together with interest at the rate of two-thirds of one percent a
36 month, or fraction of a month, from the dates on which such additional taxes would have been
37 payable.

38 (4) Notwithstanding subsection (2)(b) of this section, open space lands that qualify for wildlife
39 habitat special assessment under ORS 308A.403 to 308A.430 may be disqualified from open space
40 special assessment and qualified for wildlife habitat special assessment without payment of any ad-
41 ditional tax under this section.

42 (a) The additional tax as determined under subsection (2)(b) of this section shall remain a po-
43 tential liability notated on the assessment and tax roll, separate from and in addition to the wildlife
44 habitat potential additional tax described in ORS 308A.427.

45 (b) The interest as described in subsection (2)(b) of this section shall be frozen for as long as

1 the land remains in wildlife habitat special assessment.

2 (c) If the land is disqualified from wildlife habitat special assessment and again becomes quali-
3 fied for open space special assessment, the open space potential tax calculation shall resume as of
4 the date of the renewed open space use special assessment qualification.

5 **SECTION 29.** ORS 308A.368 is amended to read:

6 308A.368. (1) When land that has been designated as exempt from taxation under ORS 308A.350
7 to 308A.383 as riparian is applied to some use other than that compatible with riparian use, as de-
8 fined in the management plan, except through compliance with ORS 308A.365 (2), or except as a
9 result of the exercise of the power of eminent domain, the owner shall within 60 days after the
10 change in use notify the county assessor of the change in use. The assessor or assessors shall
11 withdraw the land from designation and immediately give written notice of the withdrawal to the
12 State Department of Fish and Wildlife. Thereafter, the land shall be assessed and taxed as other
13 property similarly situated is assessed and taxed.

14 (2) The assessor, upon discovery of the change in use to a use other than that compatible with
15 riparian or upon withdrawal by the owner of the land from designation, shall compute an additional
16 tax equal to the difference between the taxes assessed against the land and the taxes that otherwise
17 would have been assessed against the land had the land not received exemption for each of the last
18 five years (or such lesser number of years, corresponding to the number of years of exemption under
19 ORS 308A.350 to 308A.383 applicable to the property after its most recent change of ownership)
20 preceding the tax year in which the land was withdrawn from designation.

21 **(3) When a land use regulating entity approves a land use waiver that applies to land that**
22 **is designated riparian land under ORS 308A.350 to 308A.383, the assessor shall compute an**
23 **additional tax equal to the difference between the taxes assessed against the land and the**
24 **taxes that otherwise would have been assessed against the land had the land not received**
25 **exemption for the greater of:**

26 (a) **The number of tax years the land had been designated riparian; or**

27 (b) **The number of years, as of the assessment date, that the person receiving a land use**
28 **waiver has owned the land that is the subject of the waiver.**

29 **SECTION 30.** ORS 308A.430 is amended to read:

30 308A.430. (1) Land subject to a wildlife habitat conservation and management plan shall be in-
31 spected by the State Department of Fish and Wildlife periodically to ensure that the land is managed
32 in accordance with the plan. If the plan is not being implemented as approved, the department shall
33 notify the landowner and require compliance measures to be taken within six months. If the plan is
34 still not being implemented as required by the department at the end of the six-month period, the
35 department shall notify the county assessor that the plan is not being implemented as approved.

36 (2) The county assessor shall disqualify the land from wildlife habitat special assessment upon:

37 (a) Notice from the department as described in subsection (1) of this section;

38 (b) Notice of request by the landowner for withdrawal of the land from wildlife habitat special
39 assessment;

40 (c) Sale or transfer to an ownership making the land exempt from ad valorem property taxation;

41 (d) The land qualifying for another special assessment listed in ORS [308A.703 (1); or] **308A.706;**

42 (e) The act of recording a subdivision plat under ORS chapter 92; or

43 (f) **Approval by a land use regulating entity of a land use waiver that applies to the**
44 **land.**

45 (3) If, pursuant to subsection (2)(e) of this section, the county assessor disqualifies land for

1 wildlife habitat special assessment upon the act of recording a subdivision plat, the land may re-
2 qualify for wildlife habitat special assessment upon:

3 (a) Payment of all additional tax and interest that remains due and owing as a result of the
4 disqualification;

5 (b) Compliance with ORS 308A.403 to 308A.430; and

6 (c) Submission of an application for wildlife habitat special assessment under ORS 308A.424 and
7 approval of the application by the county assessor.

8 (4) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to
9 308A.733.

10 **SECTION 31.** ORS 321.359 is amended to read:

11 321.359. (1)(a) When land has once been designated as forestland either as a result of an appli-
12 cation being filed therefor or through the application of ORS 321.347 (3) or (4), it shall be valued
13 as such until the assessor removes the forestland designation under paragraph (b) of this subsection.

14 (b) The county assessor shall remove the forestland designation upon:

15 (A) Notification by the taxpayer to the assessor to remove the designation;

16 (B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

17 (C) Discovery by the assessor that the land is no longer forestland; [or]

18 (D) The act of recording a subdivision plat under ORS chapter 92; **or**

19 **(E) Approval by a land use regulating entity of a land use waiver that applies to the**
20 **land.**

21 (2) A taxpayer whose application filed under ORS 321.358 has been denied in whole or in part,
22 or a taxpayer whose forestland has had the designation thereof removed in whole or in part, may
23 appeal to the tax court within the time and in the manner provided in ORS 305.404 to 305.560.

24 (3) If, under subsection (1)(b)(D) of this section, the county assessor removes the forestland
25 designation upon the act of recording a subdivision plat, the land, or a part of the land, may be re-
26 qualified for forestland designation upon:

27 (a) Payment of all additional tax and applicable interest that remains due and owing on the land;

28 (b) Submission by the owner of an application for designation as forestland;

29 (c) Meeting all of the qualifications for designation as forestland; and

30 (d) Meeting the requirements, if any, of applicable local government zoning ordinances with re-
31 gard to minimum lot or parcel acreage for forest use.

32 **SECTION 32.** ORS 321.716 is amended to read:

33 321.716. (1) The county assessor shall disqualify land as small tract forestland upon:

34 (a) Sale or transfer of the small tract forestland;

35 (b) Discovery by the assessor that the land is no longer forestland;

36 (c) The owner's owning or holding in common ownership more than 5,000 acres of Oregon
37 forestland;

38 (d) The owner's owning or holding in common ownership less than 10 acres of Oregon forestland;

39 (e) Written notice from the State Forestry Department that the land no longer meets the
40 stocking and species requirements applicable to small tract forestland under rules adopted by the
41 Department of Revenue;

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

44 (g) The recording of a subdivision plat under ORS chapter 92 that subdivides the land; **or**

45 **(h) Approval by a land use regulating entity of a land use waiver that applies to the**

1 **land.**

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

5 (a) Payment of all additional tax and interest that remains due and owing as a result of the
6 disqualification;

7 (b) Submission of an application for small tract forestland assessment under ORS 321.706 and
8 approval of the application by the county assessor; and

9 (c) Compliance with any applicable local government zoning ordinances governing minimum lot
10 or parcel acreage for forest use.

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

13 **SECTION 33.** ORS 321.842 is amended to read:

14 321.842. (1)(a) When land has once been designated as forestland as a result of an application
15 being filed therefor it shall be valued as such until the county assessor removes the forestland des-
16 ignation under paragraph (b) of this subsection.

17 (b) The county assessor shall remove the forestland designation upon:

18 (A) Notification by the taxpayer to the assessor to remove the designation;

19 (B) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

20 (C) Discovery by the assessor that the land is no longer forestland; [or]

21 (D) The act of recording a subdivision plat under ORS chapter 92; **or**

22 **(E) Approval by a land use regulating entity of a land use waiver that applies to the**
23 **land.**

24 (2) A taxpayer whose application filed under ORS 321.839 has been denied in whole or in part,
25 or a taxpayer whose forestland has had the designation thereof removed in whole or in part, may
26 appeal to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to
27 305.560.

28 (3) If, under subsection (1)(b)(D) of this section, the county assessor removes the forestland
29 designation upon the act of recording a subdivision plat, the land, or a part of the land, may be re-
30 qualified for forestland designation upon:

31 (a) Payment of all additional tax and interest that remains due and owing with respect to the
32 land;

33 (b) Submission by the owner of an application for designation as forestland as provided in this
34 section;

35 (c) Meeting all of the qualifications for designation as forestland as provided in ORS 321.805 to
36 321.855; and

37 (d) Meeting the requirements, if any, of applicable local government zoning ordinances with re-
38 gard to minimum lot or parcel acreage for forest use.

39
40 **(Determination of Additional Tax)**

41
42 **SECTION 34.** ORS 308A.703 is amended to read:

43 308A.703. (1) This section applies to land upon the land's disqualification from special assess-
44 ment under any of the following sections:

45 (a) Exclusive farm use zone farmland under ORS 308A.113;

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

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

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

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

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

20 (c) Five years, in the case of:

21 (A) Nonexclusive farm use zone farmland;

22 (B) Western Oregon designated forestland;

23 (C) Eastern Oregon designated forestland;

24 *[(D) Small tract forestland;]*

25 *[(E)] (D)* Exclusive farm use zone farmland that is not described in paragraph (a) of this sub-
26 section; or

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

29 **(4) Notwithstanding subsection (3) of this section, if the reason for the disqualification**
30 **is a decision by a land use regulating entity to approve a land use waiver, the number of**
31 **years for which additional taxes shall be calculated shall be the greater of:**

32 **(a) The number of years determined under subsection (3) of this section; or**

33 **(b) The number of years for which, as of the assessment date, the person receiving the**
34 **land use waiver has owned the land that is the subject of the waiver, whether or not the land**
35 **was specially assessed in any particular year.**

36 *[(4)] (5)* The additional taxes described in this section shall be deemed assessed and imposed in
37 the year to which the additional taxes relate.

38 *[(5)] (6)* If the disqualification of the land is the result of the sale or transfer of the land to an
39 ownership making the land exempt from ad valorem property taxation, the lien for additional taxes
40 shall attach as of the day preceding the sale or transfer.

41 *[(6)] (7)* The amount determined to be due under this section may be paid to the tax collector
42 prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

43 **SECTION 35.** ORS 308A.706 is amended to read:

44 308A.706. (1) Notwithstanding that land may have been disqualified from special assessment, the
45 additional taxes described under ORS 308A.703 shall not be imposed and shall remain a potential tax

1 liability if, as of the date the disqualification is taken into account on the assessment and tax roll,
2 the land is any of the following:

3 (a) Disqualified exclusive farm use zone farmland or nonexclusive farm use zone farmland that:

4 (A) Is not being used as farmland; and

5 (B) Is not being used for industrial, commercial, residential or other use that is incompatible
6 with a purpose to return the land to farm use.

7 (b) Acquired by a governmental agency or body as a result of an exchange of the land for land
8 of approximately equal value held by the governmental agency or body.

9 (c) Acquired and used for natural heritage purposes and all of the following additional require-
10 ments are met:

11 (A) The land is registered under ORS 273.581 as a natural heritage conservation area;

12 (B) The land is acquired by a private nonprofit corporation;

13 (C) The land is retained by the corporation, or transferred to the state by the corporation, for
14 the purpose of educational, scientific and passive recreational use consistent with conservation of
15 the ecological values and natural heritage elements of the area;

16 (D) If the land is retained by the corporation, it remains open to the public without charge for
17 the uses described in subparagraph (C) of this paragraph; and

18 (E) The land is managed pursuant to a voluntary management agreement under ORS 273.581 (5).

19 (d) Qualified for special assessment under:

20 (A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;

21 (B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone
22 farmland;

23 (C) ORS 321.358, relating to classification as designated forestland in western Oregon;

24 (D) ORS 321.839, relating to classification as designated forestland in eastern Oregon;

25 (E) ORS 321.709, relating to qualification as small tract forestland; or

26 (F) ORS 308A.424, relating to wildlife habitat special assessment.

27 (e) Disqualified nonexclusive farm use zone farmland, to the extent the additional taxes are de-
28 ferred or abated as provided in ORS 308A.119.

29 **(2) Subsection (1) of this section does not apply if the reason for the disqualification is**
30 **the approval by a land use regulating entity of a land use waiver.**

31 [(2)] **(3)** In any case where the additional tax is deferred under the provisions of **subsection (1)**
32 **of this section** but may subsequently be imposed under ORS 308A.712, the county assessor shall
33 continue to enter the notation "potential additional tax liability" on the assessment and tax roll.

34 **SECTION 36.** ORS 308A.707 is amended to read:

35 308A.707. (1) Notwithstanding ORS 308A.706 [*and in addition to and not in lieu of any additional*
36 *tax imposed under ORS 308A.703*], additional taxes [*determined as prescribed under subsection (2) of*
37 *this section*] shall be imposed on land that is disqualified from small tract forestland assessment un-
38 der ORS 321.712 or 321.716. **If after disqualification the land remains specially assessed under**
39 **a special assessment program described in ORS 308A.706 (1)(d)(A) to (D) or (F), the additional**
40 **taxes shall be computed under subsection (2) of this section. If after disqualification the land**
41 **is not specially assessed under a program described in ORS 308A.706 (1)(d)(A) to (D) or (F),**
42 **the additional taxes shall be computed under subsection (3) of this section.**

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

1 taxes that would have been assessed against the land:

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

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

4 (b) The number of years for which additional taxes shall be calculated shall equal the lesser of
5 10 years or the number of consecutive years the land has been assessed as small tract forestland.

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

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

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

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

20 **(c) Notwithstanding the number of years for which additional taxes may be collected
21 under paragraph (a)(B) of this subsection, if the reason for the disqualification is an approval
22 by a land use regulating entity of a land use waiver, the number of years for which additional
23 taxes shall be calculated shall be the greater of:**

24 **(A) The number of years determined under paragraph (a)(B) of this subsection; or**

25 **(B) The number of years for which, as of the assessment date, the person receiving the
26 land use waiver has owned the land that is the subject of the waiver, whether or not the land
27 was specially assessed in any particular year.**

28 **[(3)] (4) The additional taxes described in this section shall be imposed and collected at the same
29 time and in the same manner as additional taxes described in ORS 308A.703 are imposed and col-
30 lected.**

31 **[(4)] (5) The additional taxes described in this section shall be deemed assessed and imposed in
32 the year to which the additional taxes relate.**

33 **[(5)] (6) As used in this section, “forestland,” “western Oregon” and “eastern Oregon” have the
34 meanings given those terms in ORS 321.700.**

35 **SECTION 37.** ORS 308A.712 is amended to read:

36 **308A.712. (1) If the disqualification of land from special assessment results in the deferral of
37 additional taxes under ORS 308A.706:**

38 **(a) The amount of deferred additional taxes shall be determined as provided for in this section
39 in lieu of ORS 308A.703; and**

40 **(b) The deferred additional taxes shall be added to the assessment and tax roll for the year in
41 which the event described in subsections (2) to [(6)] (7) of this section is first taken into account for
42 property tax purposes, to be collected and distributed in the same manner as other ad valorem
43 property taxes.**

44 **(2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of
45 farmland) and subsequently the land is changed to an industrial, commercial, residential or other**

1 use incompatible with a return of the land to farm use, then:

2 (a) The amount of additional tax due for each year to which the additional tax applies shall be
3 the difference between the taxes assessed against the land and the taxes that would have been as-
4 sessed against the land in that year had the land not been in special assessment; and

5 (b) The number of years for which the additional tax shall be collected shall be the total number
6 of years (whether or not continuous) that the farm use special assessment was in effect for the land,
7 not to exceed:

8 (A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth
9 boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of
10 farm use zoning applicable to the property; or

11 (B) In the case of all other farmland disqualified from farm use special assessment, five tax
12 years.

13 (3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government ex-
14 change of land), additional taxes shall be collected when the land acquired as a result of the ex-
15 change is disqualified from special assessment. The additional taxes shall equal the total amount of
16 additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to
17 the governmental agency or body received the special assessment before the exchange plus the
18 number of years, if any, the land acquired from the governmental agency or body received a special
19 assessment after the exchange.

20 (b) The total number of years taken into account shall not exceed the maximum number of years
21 for which additional taxes may be collected under the provision of law applicable to either the ex-
22 changed land (immediately before the exchange) or the acquired land, whichever is greater.

23 (4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to natural heritage), the
24 additional taxes that would have been imposed under ORS 308A.703 at the time of disqualification
25 shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

26 (5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special as-
27 sessment), the additional taxes that would have been collected at the time of disqualification shall
28 be collected at the time the land is disqualified from any other special assessment law listed in ORS
29 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

30 (a) The amount of the additional tax due for each year to which the additional tax applies shall
31 be the difference between the taxes assessed against the land and the taxes that would have been
32 assessed against the land in that year had the land not been in special assessment; and

33 (b) The number of years for which the additional tax shall be collected shall be the total number
34 of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the
35 land, not to exceed:

36 (A) Five tax years; or

37 (B) If the property had, within the past 10 tax years, been disqualified from a special assessment
38 program described in ORS 308A.703 (3)(a) or (b) and had been continuously subject to special as-
39 sessment, then 10 tax years. However, the number of continuous preceding years of special assess-
40 ment under the special assessment programs listed in ORS 308A.703 (3)(c) that may be taken into
41 consideration for purposes of computing the additional tax may not exceed five years.

42 (6) In determining the additional tax under subsection (5) of this section, the number of contin-
43 uous preceding years of special assessment counted shall not include those years in which the land
44 was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior
45 to a disqualification of the land for special assessment as exclusive farm use zone farmland under

1 the conditions described in ORS 308A.709 (6).

2 **(7) Notwithstanding any other provision of subsections (2) to (6) of this section, if addi-**
3 **tional taxes are deferred under ORS 308A.706 and subsequently a land use regulating entity**
4 **approves a land use waiver that applies to the land that is the subject of the deferred taxes**
5 **under ORS 308A.706, the amount of additional taxes to be collected following the approval**
6 **of the waiver shall be the greater of:**

7 **(a) The amount of additional taxes that would otherwise be collected under subsections**
8 **(2) to (6) of this section; or**

9 **(b) Additional taxes, as determined under subsection (5) of this section, for the number**
10 **of years for which, as of the assessment date, the person receiving the land use waiver has**
11 **owned the land that is the subject of the waiver, whether or not the land was specially as-**
12 **essed in any particular year.**

13 **SECTION 38.** ORS 308A.718 is amended to read:

14 308A.718. (1) The county assessor shall send notice as provided in this section if land is dis-
15 qualified under any of the following special assessment programs:

16 (a) Farm use special assessment under ORS 308A.050 to 308A.128.

17 (b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.

18 (c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.

19 (d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.

20 (e) Small tract forestland special assessment under ORS 321.700 to 321.754.

21 (f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.

22 (2) Notwithstanding that a change in use described in this section is not a disqualification, the
23 assessor shall send notice as provided in this section when the highest and best use of land changes
24 from forestland to a different highest and best use.

25 (3) Within 30 days after the date that land is disqualified from special assessment, the assessor
26 shall notify the taxpayer in writing of the disqualification and shall state the reason for the dis-
27 qualification.

28 (4) Following receipt of the notification, the taxpayer may appeal the assessor's determination
29 to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

30 (5)(a) When any land has been granted special assessment under any of the special assessment
31 laws listed in subsection (1) of this section and the land is disqualified from such special assessment,
32 the county assessor shall furnish the owner with a written explanation summarizing:

33 (A) ORS 308A.706 (1)(d) (relating to change in special assessment);

34 (B) ORS 308A.727 (relating to change in use to open space use special assessment for certain
35 golf courses);

36 (C) The administrative act necessary under ORS 308A.724 to change the property to another
37 classification described in this paragraph; and

38 (D) The imposition of any penalties that would result from the disqualification if no requali-
39 fication or reclassification is made under one of the other special assessment laws listed in this
40 paragraph.

41 (b) The written explanation required by this subsection shall be given in conjunction either with
42 the notice of disqualification required under this section or with an order or notice of disqualifica-
43 tion otherwise provided by law.

44 (c)(A) If no notice of disqualification is required to be made by this section or other provision
45 of law, the written explanation required by this subsection shall be made by the county assessor.

1 (B) A written explanation made under this paragraph shall be made by the assessor within 30
2 days of the effective date of the disqualification.

3 (6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

4 (a) *[The result of]* A request for disqualification by the property owner; *[or]*

5 (b) *[Because]* **Acquisition of** the property *[is being acquired]* by a government or tax-exempt
6 entity; **or**

7 **(c) Approval by a land use regulating entity of a land use waiver that applies to the**
8 **land.**

9 **SECTION 39.** ORS 308A.727 is amended to read:

10 308A.727. (1) Land specially assessed under any of the special assessment laws listed in ORS
11 308A.706 (1)(d) shall be changed to open space use special assessment under ORS 308A.300 to
12 308A.330 if:

13 (a) Application for open space use special assessment is or has been made under ORS 308A.306;

14 (b) The land qualifies for open space use special assessment;

15 (c) The application for open space use special assessment is or has been approved under ORS
16 308A.309 and 308A.312;

17 (d) The open space use is for a golf course open to the general public with or without payment
18 of fee or charge; and

19 (e) All or a portion of the land is within or is contiguous to an urban growth boundary.

20 (2) Land described in subsection (1) of this section shall not, upon the change from farm or
21 forest use to open space use, be subject to any of the additional taxes ordinarily applicable when
22 land specially assessed under one of the special assessment laws listed under ORS 308A.706 (1)(d)
23 is disqualified, declassified or otherwise removed from such special assessment.

24 (3) When land that has been changed from special assessment as farm or forest land to open
25 space use special assessment under subsections (1) and (2) of this section is later withdrawn or
26 otherwise removed from open space use special assessment, all the provisions of ORS 308A.300 to
27 308A.330 shall apply except that there shall be added to the amount of additional taxes imposed
28 under ORS 308A.318 or 308A.321 and computed under ORS 308A.312 (3), the amount of the additional
29 taxes that, except for subsections (1) and (2) of this section, would have been added at the time of
30 the change. However, in making the computation of the amount to be added under this subsection,
31 the number of years specified in ORS 308A.703:

32 **(a) Except as provided in paragraph (b) of this subsection,** shall be reduced by the number
33 of continuous years of open space use special assessment in effect for the land pursuant to the
34 change; **and**

35 **(b) May not be reduced, if the reason for the withdrawal or removal from open space use**
36 **special assessment is an approval by a land use regulating entity of a land use waiver that**
37 **applies to the land.**

38 (4) At the time of the change to open space use and each year thereafter, the assessor shall
39 determine and note upon the assessment and tax rolls the added amount of potential additional
40 taxes, if any, that may become due under *[this]* subsection **(3) of this section.**

41 *[(4)]* **(5)** For purposes of ORS 308A.324 and in construing any other provision of ORS 308A.300
42 to 308A.330, the amount of additional taxes added under subsection *[(3)]* **(4)** of this section shall be
43 treated as additional taxes imposed under ORS 308A.318 or 308A.321.

44 *[(5)]* **(6)** Upon receipt of any application for open space use special assessment under ORS
45 308A.300 to 308A.330, the public official or agency shall notify the owner of the provisions of this

1 section.

2 **SECTION 40.** Sections 41 and 42 of this 2005 Act are added to and made a part of ORS
3 308A.700 to 308A.733.

4 **SECTION 41.** (1) Upon approving a land use waiver under section 1, chapter 1, Oregon
5 Laws 2005 (Ballot Measure 37 (2004)), a land use regulating entity shall notify the county
6 assessor of the county in which the land that is the subject of the waiver is located of the
7 approval.

8 (2)(a) If the notice of approval described in subsection (1) of this section is received prior
9 to June 1 of the assessment year, the assessor shall issue a notice of intent to disqualify to
10 the owner of the land on or before July 1 of the assessment year, if the land is subject to a
11 special assessment listed in ORS 308A.703 (1), is specially assessed under ORS 308A.300 to
12 308A.330 or is exempt from tax under ORS 308A.350 to 308A.383.

13 (b) If, following issuance of the notice of intent to disqualify under paragraph (a) of this
14 subsection, the owner of the land withdraws the application for a land use waiver that the
15 owner originally filed and sends notice of the withdrawal to the assessor within 30 days of
16 the date of the notice of intent to disqualify, notwithstanding any other provision of law, the
17 assessor may not disqualify the land from special assessment. If an application for a land
18 use waiver is not withdrawn within 30 days of the notice of intent to disqualify or notice of
19 the withdrawal is not timely given to the assessor, the assessor shall disqualify the land from
20 special assessment as otherwise prescribed by law.

21 (3) If the notice of approval described in subsection (1) of this section is received on or
22 after June 1 of the assessment year, the assessor shall send the notice of intent to disqualify
23 to the owner, but may not disqualify the land that is the subject of the approval until the
24 next succeeding assessment year, and may disqualify the land only if the owner has not
25 withdrawn the owner's application for a land use waiver and given notice of the withdrawal
26 to the assessor by the time prescribed in subsection (2)(b) of this section.

27 **SECTION 42.** (1) As soon as is practicable after July 1 of a tax year, the county assessor
28 shall determine the amount of additional taxes to be imposed as the result of disqualifica-
29 tions from exemption or special assessment that are due to the approval by a land use reg-
30 ulating entity of a land use waiver.

31 (2) The assessor shall determine what the amounts described in subsection (1) constitute
32 as a percentage of total property taxes to be extended on the assessment and tax roll.

33 **SECTION 43.** ORS 308A.733 is amended to read:

34 308A.733. (1) Where any property has been granted special assessment for the purposes of
35 property taxation under any of the special assessment laws listed in subsection [(2)] (3) of this sec-
36 tion, and the owner or other qualified person applies for a change in the classification under another
37 special assessment law, the applicant shall have 30 days thereafter within which to withdraw the
38 application, by giving written notice to the public official or agency to whom the applicant applied
39 for the change in classification. If no notice of withdrawal is given by the applicant, the application
40 shall be acted upon and the change in classification made, as otherwise provided by law.

41 (2) Where any property has been disqualified from special assessment because of an ap-
42 proval by a land use regulating entity of a land use waiver, the owner of the property shall
43 have 30 days after the date of the notice of intent to disqualify issued under section 41 of this
44 2005 Act to withdraw any demand for compensation filed under section 1, chapter 1, Oregon
45 Laws 2005 (Ballot Measure 37 (2004)).

1 [(2)] (3) This section applies to the following special assessment laws:

2 (a) ORS 308A.050 to 308A.128 (relating to special assessment at value for farm use).

3 (b) ORS 321.257 to 321.390 (relating to special assessment as designated forestland in western
4 Oregon).

5 (c) ORS 321.805 to 321.855 (relating to special assessment as designated forestland in eastern
6 Oregon).

7 (d) ORS 321.700 to 321.754 (relating to special assessment as small tract forestland).

8 (e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

9 (f) ORS 308A.350 to 308A.383 (relating to designation as riparian land).

10
11 **(Disposition of Additional Tax Revenues and**
12 **Post-Disqualification Increment Revenues)**
13

14 **SECTION 44. Sections 45 and 46 of this 2005 Act are added to and made a part of ORS**
15 **chapter 311.**

16 **SECTION 45. (1) Each county treasurer in this state shall establish a separate and dis-**
17 **tingent account in the county treasury to be known as the unsegregated regulatory compen-**
18 **sation account.**

19 **(2) If additional taxes are collected as a result of a disqualification from special assess-**
20 **ment or exemption due to an approval by a land use regulating entity of a land use waiver,**
21 **all additional taxes collected shall be deposited in the unsegregated regulatory compensation**
22 **account in lieu of the unsegregated tax collections account.**

23 **(3) For each tax year, moneys in the unsegregated regulatory compensation account shall**
24 **be distributed as follows:**

25 **(a) Each school district, education service district, community college district or com-**
26 **munity college service district within the county shall receive distributions of moneys in the**
27 **same ratio to the total amount to be distributed as applies to the school district, education**
28 **service district, community college district or community college service district under the**
29 **unsegregated tax collections account. Moneys distributed under this paragraph may be used**
30 **by the school district, education service district, community college district or community**
31 **college service district for any purpose for which property tax revenues may be expended.**

32 **(b) Each city or metropolitan service district in the county shall receive distributions of**
33 **moneys in the same ratio to the total amount to be distributed as applies to the city or**
34 **metropolitan service district under the unsegregated tax collections account. Moneys dis-**
35 **tributed under this paragraph shall be used only to pay compensation under demands filed**
36 **with a city or metropolitan service district under section 1, chapter 1, Oregon Laws 2005**
37 **(Ballot Measure 37 (2004)).**

38 **(c) The balance of moneys shall be distributed to the county. Moneys distributed under**
39 **this paragraph shall be used only to pay compensation under demands filed with the county**
40 **under section 1, chapter 1, Oregon Laws 2005 (Ballot Measure 37 (2004)).**

41 **SECTION 46. (1) Prior to delivery of the assessment roll pursuant to ORS 311.115, the**
42 **county assessor shall determine a ratio, the numerator of which is the total assessed value**
43 **the county would have had for the tax year if the property described in subsection (2) of this**
44 **section had not been disqualified from special assessment and the denominator of which is**
45 **the actual total assessed value of the county for the tax year.**

1 **(2)(a) For purposes of computing the numerator of the ratio described in subsection (1)**
2 **of this section for a tax year, property shall be deemed to be exempt or be deemed to have**
3 **a specially assessed value, whichever is applicable, if at any time during the preceding 10 tax**
4 **years the property:**

5 **(A) Was specially assessed under a special assessment program listed in ORS 308A.703,**
6 **specially assessed under ORS 308A.300 to 308A.330 or exempt under ORS 308A.350 to 308A.383;**
7 **and**

8 **(B) Was disqualified from special assessment or exemption because of the approval by a**
9 **land use regulating entity of a land use waiver.**

10 **(b) The specially assessed value described in paragraph (a) of this subsection shall be**
11 **determined without regard to maximum specially assessed value or the limitations of section**
12 **11, Article XI of the Oregon Constitution.**

13 **SECTION 47.** ORS 311.370, as amended by section 70, chapter 655, Oregon Laws 2003, is
14 amended to read:

15 311.370. (1)(a) For all taxes, penalties and other charges collected by the tax collector under,
16 including, but not limited to, ORS 92.095, 100.110, 285C.050 to 285C.250, 308.260, 308.865, 308A.119,
17 308A.324, 308A.700 to 308A.733, 311.165, 311.206, 311.229, 311.405 (4) or (5), 311.415, 311.465, 354.690,
18 358.525, 446.631 and 454.225, the tax collector shall issue receipts similar in form to the receipts is-
19 sued on payment of taxes regularly charged on the tax roll.

20 (b) The assessor shall enter all assessments of property to which paragraph (a) of this subsection
21 applies in the assessment roll and shall make proper entries showing the extension of the taxes in
22 the usual manner and as though no payment to the tax collector had been made.

23 (2) Upon receipt thereof, the tax collector shall deposit with the county treasurer all money
24 collected by the tax collector under subsection (1) of this section. The county treasurer shall issue
25 to the tax collector duplicate receipts for the money and shall hold it in a special account in the
26 name of the tax collector.

27 (3) Upon delivery of the assessment roll pursuant to ORS 311.115, the tax collector shall post
28 the payments evidenced by the receipts, and the amount of any underpayment or overpayment. The
29 tax collector shall then make a statement to the county treasurer which shall specify the amount
30 to be retained in the special account to make the refunds required under subsection (4) of this sec-
31 tion. The tax collector shall direct the county treasurer to transfer the balance in the special ac-
32 count to the unsegregated tax collections account described in ORS 311.385.

33 (4) Any sum collected by the tax collector that exceeds the amount extended on the tax roll as
34 provided in subsection (1)(b) of this section by \$5 or more shall be refunded to the taxpayer by the
35 county treasurer upon receiving instructions for doing so from the tax collector. If an amount re-
36 mains that cannot be refunded by June 30 of the next calendar year, the tax collector shall instruct
37 the treasurer to transfer the amount [*to the unsegregated tax collections account described*] **as pre-**
38 **scribed in ORS 311.385 (5).**

39 (5) If a sum less than the tax charged on the tax roll has been collected, the deficiency shall
40 be canceled by the tax collector if such sum is \$5 or less, and the tax collector shall note upon the
41 tax roll opposite the appropriate account, "Tax deficiency canceled pursuant to ORS 311.370." Oth-
42 erwise, the deficiency shall be collected as provided by law.

43 (6) If an appeal that is perfected under ORS 311.467 for taxes collected under ORS 311.465 re-
44 sults in a refund under ORS 311.806, the reimbursement for the refund to the unsegregated tax col-
45 lections account shall be made from the account provided for in subsection (2) of this section.

1 **SECTION 48.** ORS 311.385 is amended to read:

2 311.385. (1) The tax collector shall deposit all property tax moneys with the county treasurer
3 no later than:

4 (a) One business day after:

5 (A) Payment of the moneys is made in person at the office of the tax collector; or

6 (B) The tax collector receives moneys collected by a financial institution or other collection
7 agency; or

8 (b) Thirty calendar days after the payment arrives by mail in the county mail receptacle.

9 (2) The tax collector shall take a receipt for all moneys deposited with the county treasurer.

10 (3) Property tax moneys [*shall*] **may** not be deposited in any account other than the unsegre-
11 gated tax collections account, except as provided in **subsection (5) of this section and** ORS 311.370
12 and 311.508 and section 2, chapter 190, Oregon Laws 2003.

13 (4) No later than one business day after receiving notice of collection of tax moneys by a fi-
14 nancial institution or other collection agency, the tax collector shall notify the county treasurer of
15 the collection of those tax moneys.

16 (5) Except as provided in ORS 311.370 and 311.508 and section 2, chapter 190, Oregon Laws 2003,
17 the county treasurer shall deposit:

18 (a) **The percentage of collections for the tax year determined by the assessor under sec-**
19 **tion 42 (2) of this 2005 Act to be allocable to additional taxes resulting from land use waiver**
20 **disqualifications, to the unsegregated regulatory compensation account described in section**
21 **45 of this 2005 Act;**

22 (b) **That portion of the remaining balance after the distribution in paragraph (a) of this**
23 **subsection that corresponds to 1 minus the ratio determined under section 46 (1) of this 2005**
24 **Act for the tax year to the unsegregated regulatory compensation account described in sec-**
25 **tion 45 of this 2005 Act; and**

26 (c) All **remaining** property tax moneys to an account in the records of the county treasurer
27 designated as the unsegregated tax collections account. Only those moneys that will be distributed
28 under ORS 311.390 and interest earned from the investment of those moneys shall be deposited to
29 the unsegregated tax collections account.

30 (6) As used in this section, "property tax moneys" includes all ad valorem taxes and all taxes
31 on property, as defined in ORS 310.140, and all other amounts specifically authorized by law to be
32 included on the assessment and tax roll, that are certified for collection under ORS 310.060 or other
33 law and any interest on those taxes.

34 **SECTION 49.** ORS 311.385, as amended by section 9, chapter 190, Oregon Laws 2003, is
35 amended to read:

36 311.385. (1) The tax collector shall deposit all property tax moneys with the county treasurer
37 no later than:

38 (a) One business day after:

39 (A) Payment of the moneys is made in person at the office of the tax collector; or

40 (B) The tax collector receives moneys collected by a financial institution or other collection
41 agency; or

42 (b) Thirty calendar days after the payment arrives by mail in the county mail receptacle.

43 (2) The tax collector shall take a receipt for all moneys deposited with the county treasurer.

44 (3) Property tax moneys [*shall*] **may** not be deposited in any account other than the unsegre-
45 gated tax collections account, except as provided in **subsection (5) of this section and** ORS 311.370

1 and 311.508.

2 (4) No later than one business day after receiving notice of collection of tax moneys by a fi-
3 nancial institution or other collection agency, the tax collector shall notify the county treasurer of
4 the collection of those tax moneys.

5 (5) Except as provided in ORS 311.370 and 311.508, the county treasurer shall deposit:

6 (a) **The percentage of collections for the tax year determined by the assessor under sec-**
7 **tion 42 (2) of this 2005 Act to be allocable to additional taxes resulting from land use waiver**
8 **disqualifications, to the unsegregated regulatory compensation account described in section**
9 **45 of this 2005 Act;**

10 (b) **That portion of the remaining balance after the distribution in paragraph (a) of this**
11 **subsection that corresponds to 1 minus the ratio determined under section 46 (1) of this 2005**
12 **Act for the tax year to the unsegregated regulatory compensation account described in sec-**
13 **tion 45 of this 2005 Act; and**

14 (c) All **remaining** property tax moneys to an account in the records of the county treasurer
15 designated as the unsegregated tax collections account. Only those moneys that will be distributed
16 under ORS 311.390 and interest earned from the investment of those moneys shall be deposited to
17 the unsegregated tax collections account.

18 (6) As used in this section, "property tax moneys" includes all ad valorem taxes and all taxes
19 on property, as defined in ORS 310.140, and all other amounts specifically authorized by law to be
20 included on the assessment and tax roll, that are certified for collection under ORS 310.060 or other
21 law and any interest on those taxes.

22 **SECTION 50.** ORS 311.390 is amended to read:

23 311.390. (1) When the tax collector receives the assessor's certificate pursuant to ORS 311.115,
24 the tax collector shall prepare and file with the county treasurer a percentage schedule of the ratio
25 of taxes on property, as defined in ORS 310.140, and other amounts to be collected, after reductions
26 necessary to comply with section 11b, Article XI of the Oregon Constitution, after making adjust-
27 ments in accordance with ORS 311.105 (1)(c), for each governmental unit as shown in such certif-
28 icate, compared to the total of each of those amounts. Such schedule shall be approved by the
29 county accountant, if one exists in the county, or by the county clerk before filing. Except as pro-
30 vided in subsections (2) and (3) of this section **and section 45 of this 2005 Act**, the distribution of
31 collections by the tax collector shall be made on the basis of the ratios computed pursuant to this
32 section. **Except as provided in section 45 of this 2005 Act**, the ratios computed pursuant to this
33 section for a given fiscal year shall be used for the distribution of all taxes on property or penalties
34 that have been imposed, collected and received for that fiscal year, regardless of the actual date of
35 receipt, except for moneys retained by a county to pay bankruptcy costs under section 2, chapter
36 190, Oregon Laws 2003. Interest earned on moneys in the unsegregated tax collections account shall
37 be distributed according to the ratio applicable to the year in which the moneys are distributed.

38 (2) If, after the ratios are computed pursuant to this section, the amount of a levy or other tax
39 on property is changed, or a levy or other tax on property is filed with the assessor pursuant to
40 ORS 310.060 that had not been included in the tax distribution schedule for that year, the tax col-
41 lector shall revise the percentages provided in subsection (1) of this section to reflect the corrected
42 or added levy or tax and shall adjust the amounts previously distributed and to be distributed
43 thereafter to reflect the revision in percentages.

44 (3) If, in the opinion of the tax collector, it is not feasible to make the revisions described in
45 subsection (2) of this section, the tax collector shall treat the amount of the change in levy or tax

1 or the additional levy or tax as a separate tax collection and segregate the moneys collected for the
2 particular district or districts in the periodic statement of tax collections given to the county
3 treasurer pursuant to ORS 311.395.

4 (4) If the percentage schedule is revised, a copy shall be filed with the county treasurer after
5 approval by the county accountant, if one exists in the county, or by the county clerk.

6 (5) If, after the ratios are computed under this section, a levy or tax is changed or a levy or tax
7 is filed with the assessor pursuant to ORS 310.060, that was not included in the tax distribution
8 schedule for that year, future distributions of interest shall be based on the revised percentages that
9 reflect the corrected or added levy or tax. No adjustments shall be made for previously distributed
10 interest.

11 **SECTION 51.** ORS 311.390, as amended by section 11, chapter 190, Oregon Laws 2003, is
12 amended to read:

13 311.390. (1) When the tax collector receives the assessor's certificate pursuant to ORS 311.115,
14 the tax collector shall prepare and file with the county treasurer a percentage schedule of the ratio
15 of taxes on property, as defined in ORS 310.140, and other amounts to be collected, after reductions
16 necessary to comply with section 11b, Article XI of the Oregon Constitution, after making adjust-
17 ments in accordance with ORS 311.105 (1)(c), for each governmental unit as shown in such certif-
18 icate, compared to the total of each of those amounts. Such schedule shall be approved by the
19 county accountant, if one exists in the county, or by the county clerk before filing. Except as pro-
20 vided in subsections (2) and (3) of this section **and section 45 of this 2005 Act**, the distribution of
21 collections by the tax collector shall be made on the basis of the ratios computed pursuant to this
22 section. **Except as provided in section 45 of this 2005 Act**, the ratios computed pursuant to this
23 section for a given fiscal year shall be used for the distribution of all taxes on property or penalties
24 that have been imposed, collected and received for that fiscal year, regardless of the actual date of
25 receipt. Interest earned on moneys in the unsegregated tax collections account shall be distributed
26 according to the ratio applicable to the year in which the moneys are distributed.

27 (2) If, after the ratios are computed pursuant to this section, the amount of a levy or other tax
28 on property is changed, or a levy or other tax on property is filed with the assessor pursuant to
29 ORS 310.060 that had not been included in the tax distribution schedule for that year, the tax col-
30 lector shall revise the percentages provided in subsection (1) of this section to reflect the corrected
31 or added levy or tax and shall adjust the amounts previously distributed and to be distributed
32 thereafter to reflect the revision in percentages.

33 (3) If, in the opinion of the tax collector, it is not feasible to make the revisions described in
34 subsection (2) of this section, the tax collector shall treat the amount of the change in levy or tax
35 or the additional levy or tax as a separate tax collection and segregate the moneys collected for the
36 particular district or districts in the periodic statement of tax collections given to the county
37 treasurer pursuant to ORS 311.395.

38 (4) If the percentage schedule is revised, a copy shall be filed with the county treasurer after
39 approval by the county accountant, if one exists in the county, or by the county clerk.

40 (5) If, after the ratios are computed under this section, a levy or tax is changed or a levy or tax
41 is filed with the assessor pursuant to ORS 310.060, that was not included in the tax distribution
42 schedule for that year, future distributions of interest shall be based on the revised percentages that
43 reflect the corrected or added levy or tax. No adjustments shall be made for previously distributed
44 interest.

45 **SECTION 52.** ORS 311.280, as amended by section 69, chapter 655, Oregon Laws 2003, is

1 amended to read:

2 311.280. (1) Any person desiring to pay taxes on any part of any real estate assessed as one
3 parcel or tract may do so by applying to the county assessor or deputy county assessor. The county
4 assessor shall determine the relative or proportionate value such part bears to the value of the
5 whole tract assessed, and shall file a statement thereof with the tax collector, on which basis the
6 assessment shall be divided and taxes shall be collected accordingly.

7 (2) The assessor or tax collector shall not divide an assessment under this section unless the
8 person calling for the division of assessment owns, or holds a mortgage or other lien on that part
9 only of such area on which the person desires to pay the taxes, and has filed with the assessor a
10 true copy of the deed, contract of sale, mortgage or other instrument evidencing the interest in the
11 part; provided that whenever such instrument is otherwise recorded in the county records, such fil-
12 ing shall not be required.

13 (3) The assessor or tax collector shall not divide an assessment under this section unless all ad
14 valorem taxes, fees and other charges required to be placed upon the tax roll that have been certi-
15 fied for collection under ORS 311.105 and 311.110 and become a lien upon the entire parcel of
16 property have been paid. However, if the applicant for the division is a public body, only the portion
17 of such taxes, fees and other charges apportionable to the part of the real estate owned by the
18 public body, or on which the public body holds a mortgage or other lien, need be paid. As used in
19 this subsection, "public body" means the United States, its agencies and instrumentalities, the state,
20 a county, city, school district, irrigation or drainage district, a port, a water district and all other
21 public or municipal corporations in the state exempt from tax under ORS 307.040 or 307.090.

22 (4) In the case of a parcel or tract of real estate which is being assessed under one of the special
23 assessment laws listed in ORS 308A.733 [(2)] (3) or under ORS 358.480 to 358.545, the assessor or
24 tax collector shall not divide the assessment unless the portion of any additional taxes or penalty
25 apportionable to the part of the property disqualified from special assessment is paid.

26 (5) In the case of property within the jurisdiction of a city or county which has adopted minor
27 land partition regulations pursuant to ORS 92.046, the assessor shall not divide an assessment unless
28 the person calling for the division of assessment has filed with the assessor evidence that the divi-
29 sion has been approved as required by such regulations.

30 (6) Whenever a manufactured structure is assessed as real property under ORS 308.875, and the
31 security interest holder of the manufactured structure is a person different from the owner of the
32 parcel of land upon which it is situated, the security interest holder may apply to the assessor for
33 a division of the value of the entire parcel between the value of the manufactured structure and the
34 value of the remainder of the parcel. Using this value division, the tax collector shall allocate the
35 taxes between the manufactured structure and the remainder of the parcel, and the security interest
36 holder of the manufactured structure may pay the taxes on the value attributable to the manufac-
37 tured structure and thereby free the manufactured structure from the lien of those taxes. If a divi-
38 sion is made and taxes and special assessments are paid on the value attributable to the
39 manufactured structure, the county may reclassify the manufactured structure as personal property,
40 forward the ownership document application information to the Department of Consumer and Busi-
41 ness Services and allow the structure to be moved as provided in ORS 446.631 without payment of
42 the taxes and special assessments attributable to the remainder of the parcel.

43 (7) If protest is filed to the division, the matter shall be heard by the county commissioners or
44 the county court (as defined in ORS 306.005) at its next regular session for transaction of county
45 business, who shall make a final division of the assessment, and the tax collector shall collect and

1 receipt for the taxes as so determined and ordered.

2 (8) No person shall apply in any year under this section for a division of the assessment of a
3 subdivision made on the assessment roll prepared as of January 1 of the year in which the subdivi-
4 sion is finally approved.

5
6 **MISCELLANEOUS**
7

8 **SECTION 53.** (1) Sections 1, 3 to 19, 21, 23, 24b, 24d, 41, 42, 45 and 46 of this 2005 Act and
9 the amendments to statutes by sections 2, 24a, 24c, 25 to 39, 43 and 47 to 52 of this 2005 Act
10 apply to a demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot
11 Measure 37 (2004)), filed with a public entity on or after December 2, 2004.

12 (2) If a demand for compensation under section 1, chapter 1, Oregon Laws 2005 (Ballot
13 Measure 37 (2004)), was filed before the effective date of this 2005 Act:

14 (a) Any decision on the demand is void; and

15 (b) The owner must refile the demand as provided in section 5 of this 2005 Act to receive
16 relief.

17 (3) If an owner refiles a demand under subsection (2) of this section, the public entity
18 may not charge an additional fee for reviewing the refiled demand.

19 **SECTION 54.** Sections 1, 3 to 19, 21, 23, 24b, 24d, 41, 42, 45 and 46 of this 2005 Act and the
20 amendments to statutes by sections 2, 24a, 24c, 25 to 39, 43 and 47 to 52 of this 2005 Act:

21 (1) Do not become operative unless legislation authorizing a development rights equal-
22 ization assessment is in effect on or before December 31, 2006; and

23 (2) Become operative on the effective date of legislation authorizing a development rights
24 equalization assessment.

25 **SECTION 55.** The unit captions used in this 2005 Act are provided only for the conven-
26 ience of the reader and do not become part of the statutory law of this state or express any
27 legislative intent in the enactment of this 2005 Act.

28 **SECTION 56.** This 2005 Act takes effect on the 91st day after the date on which the
29 regular session of the Seventy-third Legislative Assembly adjourns sine die.
30