

AN ACT

SB 514

Relating to special assessments; creating new provisions; and amending ORS 215.236, 271.785, 308A.253, 308A.318, 308A.703, 308A.706, 308A.707, 308A.712, 308A.718, 308A.724, 308A.733, 308A.743 and 321.716.

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

SECTION 1. Sections 2 to 7 of this 2007 Act are added to and made a part of ORS chapter 308A.

SECTION 2. As used in sections 2 to 7 of this 2007 Act:

(1) “Conservation easement” has the meaning given that term in ORS 271.715.

(2) “Holder” has the meaning given that term in ORS 271.715.

(3) “Internal Revenue Code” means the federal Internal Revenue Code as amended and in effect on December 31, 2006.

(4) “Lot” has the meaning given that term in ORS 92.010.

(5) “Parcel” has the meaning given that term in ORS 92.010, as further modified by ORS 215.010.

SECTION 3. (1) Land subject to a conservation easement that is held by one or more holders and that is managed in compliance with the terms of the easement, shall receive conservation easement special assessment for ad valorem property tax purposes.

(2) In order for land to be subject to assessment under sections 2 to 7 of this 2007 Act:

(a) The terms of the conservation easement must be capable of meeting the requirements for being considered exclusively for conservation purposes under section 170(h) of the Internal Revenue Code if the land or easement were ever to be the subject of a contribution;

(b) The conservation easement must be recorded in the records of the clerk of the county in which the land is located; and

(c) A written certification must be filed with the county assessor stating that the conservation easement satisfies the requirements of paragraph (a) of this subsection. The certification must be filed by:

(A) The owner of the land, if a deduction has been claimed for federal income tax purposes under section 170 of the Internal Revenue Code for a qualified conservation contribution with respect to the conservation easement; or

(B) The holder, in all cases that are not described in subparagraph (A) of this paragraph.

SECTION 4. (1) Upon satisfying the requirements of section 3 of this 2007 Act, the owner of land subject to a conservation easement may apply to the county assessor to receive conservation easement special assessment.

(2) Application shall be made to the county assessor on forms prepared by the Department of Revenue and supplied by the county assessor.

(3) Applications for conservation easement special assessment shall be made to the county assessor on or before April 1 of the first assessment year for which the assessment is desired. The application shall include:

(a) A copy of the conservation easement along with the property tax account number for the land.

(b) Contact information for the landowner and the holder or holders of the conservation easement.

(c) Representations, along with supporting documentation, that the requirements of section 3 of this 2007 Act have been satisfied.

(d) A statement that the applicant is aware of the potential tax liability that arises under ORS 308A.700 to 308A.733 upon disqualification from conservation easement special assessment.

(e) An affirmation that the statements contained in the application are true.

(f) An application fee in the amount of \$250.

(4) The county assessor shall approve an application that includes all documents listed in subsection (3) of this section. The assessor shall notify the landowner and the holder of the assessor's decision to approve or wholly or partially deny an application.

(5) Whether land subject to a conservation easement qualifies for special assessment under this section shall be determined as of January 1 of the assessment year. If land so qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be valued under ORS 308.232 at its real market value as defined by law without regard to this section and shall be assessed at its assessed value under ORS 308.156 or as otherwise provided by law. If the land becomes disqualified on or after July 1, the land shall continue to qualify for special assessment as provided in this section for the current tax year.

(6) Application fees collected under this section shall be deposited in the county general fund to the credit of the county assessor.

SECTION 5. (1) The county assessor shall value land for conservation easement special assessment in accordance with this section.

(2) For property that was specially assessed during the previous assessment year under a special assessment law listed in ORS 308A.706 (1)(d), the property shall have a specially assessed value, a maximum assessed value and an assessed value determined under whichever of the following was an applicable method of valuation for the previous assessment year:

(a) ORS 308A.050 to 308A.128; or

(b) ORS 321.354 or 321.833.

(3) For property that was not specially assessed during the previous assessment year, the property shall have a specially assessed value, a maximum assessed value and an assessed value:

(a) Determined under ORS 321.354 or 321.833 if, at the time of application, the land has growing upon it trees of a marketable species and in numbers sufficient to meet requirements for designated forestland under ORS 321.358 or 321.839; or

(b) If the criteria set forth in paragraph (a) of this subsection are not satisfied, determined under ORS 308A.050 to 308A.128.

(4) For property subject to conservation easement special assessment, the county assessor shall enter on the assessment and tax roll the notation “potential additional tax liability” until the land is disqualified under section 7 of this 2007 Act.

SECTION 6. Subject to the terms of the applicable conservation easement, new and existing dwellings may be allowed on a lot or parcel subject to conservation easement special assessment as follows:

(1) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to (11), may remain.

(2) For a lot or parcel without an existing dwelling, dwellings may be allowed if each dwelling for which the landowner seeks approval complies with all applicable requirements under the county’s acknowledged zoning ordinance.

SECTION 7. (1) Land that is receiving conservation easement special assessment shall be inspected by a holder periodically to ensure that:

(a) The land is managed in accordance with the terms of the conservation easement to which the land is subject;

(b) The conservation easement continues to meet the requirements of section 3 (2)(a) of this 2007 Act; and

(c) The holder complies with subsection (2) of this section.

(2)(a) Every three years, or more frequently if requested in writing by the county assessor, the holder shall provide written certification to the county

assessor that the land is being managed in accordance with the terms of the conservation easement to which the land is subject and that the conservation easement continues to meet the requirements of section 3 (2)(a) of this 2007 Act.

(b) If, upon inspection, the holder determines that the land is not being managed in accordance with the terms of the conservation easement to which the land is subject or that the conservation easement no longer meets the requirements of section 3 (2)(a) of this 2007 Act, the holder shall notify the landowner and require compliance measures to be taken within six months or a reasonable shorter period if permitted by the terms of the conservation easement. If the plan is still not being implemented as required by the holder at the end of the six-month period or applicable shorter period, the holder shall notify the county assessor that the land is not being managed in accordance with the terms of the conservation easement to which the land is subject.

(3) If the landowner has claimed a federal income tax deduction under section 170 of the Internal Revenue Code and the claim is disallowed because the contribution on which the claim is based is not a qualified conservation contribution under section 170(h) of the Internal Revenue Code, the landowner and holder shall immediately notify the county assessor of the disallowance.

(4) The county assessor shall disqualify the land from conservation easement special assessment upon:

(a) Failure of the holder to provide the certification described in subsection (2)(a) of this section within 90 days following the close of the three-year period or the date of the written request, whichever is earlier;

(b) Notice from the holder as described in subsection (2)(b) of this section;

(c) Notice from the landowner or holder as described in subsection (3) of this section;

(d) Notice of request for withdrawal by the landowner of the land from conservation easement special assessment;

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

(f) The land qualifying for another special assessment listed in ORS 308A.706 (1)(d); or

(g) The act of recording a subdivision plat under ORS chapter 92.

(5) If, pursuant to subsection (4)(g) of this section, the county assessor disqualifies land for conservation easement special assessment upon the act of recording a subdivision plat, the land may requalify for conservation easement special assessment upon:

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

(b) Compliance with sections 2 to 7 of this 2007 Act; and

(c) Submission of an application for conservation easement special assessment under section 4 of this 2007 Act and approval of the application by the county assessor.

(6) Upon disqualification, the county assessor shall compute an additional tax under ORS 308A.700 to 308A.733.

SECTION 8. ORS 308A.253 is amended to read:

308A.253. (1) Land under a dwelling that is used in conjunction with the activities customarily carried on in the management and operation of forestland held or used for the predominant purpose of growing and harvesting trees of a marketable species shall qualify for special assessment under ORS 308A.256.

(2) Land under dwellings located within an exclusive farm use zone and used in conjunction with farm use shall qualify for special assessment under ORS 308A.256.

(3) Land under dwellings used in conjunction with the farm use of nonexclusive farm use zone farmland shall qualify for special assessment under ORS 308A.256 if the farmland was operated as a part of a farm unit that produced more than one-half of the adjusted gross income of the owner or owners in the year prior to the year an application is filed under this section.

(4) Land under a dwelling on a lot or parcel that is specially assessed under ORS 308A.403 to 308A.430 **or sections 2 to 7 of this 2007 Act** shall qualify for special assessment under ORS 308A.256 if the land associated with the homesite:

(a) Was the subject of an application for wildlife habitat special assessment under ORS 308A.424 **or conservation easement special assessment under section 4 of this 2007 Act** and includes an existing homesite that was specially assessed under one of the special assessments listed in ORS 308A.703 (1) during the assessment year prior to application; or

(b)(A) Is zoned in the comprehensive plan for exclusive farm use, forest use or farm and forest use; and

(B) The parcel has a minimum of 10 acres that meet the stocking and species requirements of land specially assessed under ORS 321.354 or 321.833.

(5) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling “in conjunction with the activities customarily carried on in the management and operation of forestland” includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the forestland, is occupied by an employee of the owner of forestland who is employed in connection with the forest operation or is occupied by a person who is involved in the forest operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the forest operation but:

(A) Whose principal source of income is derived from the harvest of timber from the forestland on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the forest operation, during the five consecutive tax years before the tax year in which engagement in the forest operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the forest operation ended. For purposes of this subparagraph, “continuous” includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

(6) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling “in conjunction with farm use” of farm use land includes but is not limited to use of the dwelling under circumstances as follows:

(a) The dwelling is owned and occupied by a person who is engaged in the operation of the farm use land, is occupied by an employee of the owner of farm use land who is employed in connection with the farming operation or is occupied by a person who is involved in the farming operation; or

(b) The dwelling is owned and occupied by a person who is no longer engaged in the farm operation on the farm use land but:

(A) Whose principal source of income is from the farm operation on the farm use land on which the dwelling is located;

(B) Who owned and occupied the dwelling, and was engaged in the farm operation, during the five consecutive tax years before the tax year in which engagement in the farm operation ended; and

(C) Who has owned and occupied the dwelling continuously during the period since engagement in the farm operation ended. For purposes of this subparagraph, “continuous” includes any period in which the dwelling is unoccupied because of health, vacation or other reason, if during the period the dwelling is not leased or rented to another person.

(7)(a) In order for land described in subsection (3) of this section to qualify for assessment under ORS 308A.250 to 308A.259, the owner or owners shall file an application with the county assessor on or before April 15 of each year the assessment is desired. The application shall be made on forms prepared by the Department of Revenue and supplied by the assessor and shall include any information as may be reasonably required to determine the entitlement of the applicant, including copies of applicable state income tax returns. All information provided, including determinations made under administrative and court proceedings where entitlement is in issue, shall be confidential information of the assessor’s office and shall be used only for purposes of this subsection.

(b) There shall be attached to each application an affidavit or affirmation from the applicant providing that the statements contained in the application are true.

SECTION 9. ORS 308A.318 is amended to read:

308A.318. (1) When land has once been classified under ORS 308A.300 to 308A.330, it shall remain under such classification and it shall not be applied to any other use than as open space unless withdrawn from classification as provided in subsection (2) of this section, except that if the use as open space land changes from one open space use to another open space use, such as a change from park purposes to golf course land, the owner shall notify the assessor of such change prior to the next January 1 assessment date.

(2) During any year after classification, notice of request for withdrawal may be given by the owner to the county assessor or assessors of the county or counties in which such land is situated. The county assessor or assessors, as the case may be, shall withdraw such land from such classification, and immediately shall give written notice of the withdrawal to the granting authority that classified the land; and additional real property taxes shall be collected on such land in an amount equal to the total amount of potential additional taxes computed under ORS 308A.312 (3) during each year in which the land was classified, together with interest at the rate of two-thirds of one percent a month, or fraction of a month, from the dates on which such additional taxes would have been payable had the land not been so classified, limited to a total amount not in excess of the dollar difference in the value of the land as open space land for the last year of classification and the real market value under ORS 308.205 for the year of withdrawal.

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

(4) Notwithstanding subsection (2) of this section, open space lands that qualify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 **or conservation easement special assessment under sections 2 to 7 of this 2007 Act** may be disqualified from open space special assessment and qualified for wildlife habitat special assessment **or conservation easement special assessment** without payment of any additional tax under this section.

(a) The additional tax as determined under subsection (2) of this section shall remain a potential liability notated on the assessment and tax roll, separate from and in addition to the wildlife habitat potential additional tax described in ORS 308A.427 **or the conservation easement potential additional tax described in section 5 of this 2007 Act.**

(b) The interest as described in subsection (2) of this section shall be frozen for as long as the land remains in wildlife habitat special assessment **or conservation easement special assessment**.

(c) If the land is disqualified from wildlife habitat special assessment **or conservation easement special assessment** and again becomes qualified for open space special assessment, the open space potential tax calculation shall resume as of the date of the renewed open space use special assessment qualification.

SECTION 10. ORS 308A.703 is amended to read:

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

- (a) Exclusive farm use zone farmland under ORS 308A.113;
- (b) Nonexclusive farm use zone farmland under ORS 308A.116;
- (c) Western Oregon designated forestland under ORS 321.359;
- (d) Eastern Oregon designated forestland under ORS 321.842; [*or*]
- (e) Wildlife habitat special assessment under ORS 308A.430[.]; **or**
- (f) Conservation easement special assessment under section 7 of this 2007**

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

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

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

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

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

[*c*] (d) Five years, in the case of:

- (A) Nonexclusive farm use zone farmland;
- (B) Western Oregon designated forestland;
- (C) Eastern Oregon designated forestland;

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

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

(F) Conservation easement special assessment land that is not described in paragraph (c) of this subsection.

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

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

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

SECTION 11. ORS 308A.706 is amended to read:

308A.706. (1) Notwithstanding that land may have been disqualified from special assessment, the additional taxes described under ORS 308A.703 shall not be imposed and shall remain a potential tax liability if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is any of the following:

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

(A) Is not being used as farmland; and

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

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

(c) Acquired and used for natural heritage purposes and all of the following additional requirements are met:

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

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

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

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

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

- (d) Qualified for special assessment under:
 - (A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;
 - (B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone farmland;
 - (C) ORS 321.358, relating to classification as designated forestland in western Oregon;
 - (D) ORS 321.839, relating to classification as designated forestland in eastern Oregon;
 - (E) ORS 321.709, relating to qualification as small tract forestland; [*or*]
 - (F) ORS 308A.424, relating to wildlife habitat special assessment[.] **or**
 - (G) **Section 4 of this 2007 Act, relating to conservation easement special assessment.**

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

(2) In any case where the additional tax is deferred under the provisions of this section but may subsequently be imposed under ORS 308A.712, the county assessor shall continue to enter the notation “potential additional tax liability” on the assessment and tax roll.

SECTION 12. ORS 308A.718 is amended to read:

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

- (a) Farm use special assessment under ORS 308A.050 to 308A.128.
- (b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.
- (c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.
- (d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.
- (e) Small tract forestland special assessment under ORS 321.700 to 321.754.
- (f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.
- (g) **Conservation easement special assessment under sections 2 to 7 of this 2007 Act.**

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

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

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

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

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

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

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

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

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

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

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

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

(a) The result of a request for disqualification by the property owner; or

(b) Because the property is being acquired by a government or tax-exempt entity.

SECTION 13. ORS 215.236 is amended to read:

215.236. (1) As used in this section, "dwelling" means a single-family residential dwelling not provided in conjunction with farm use.

(2) The governing body or its designee may not grant final approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.

(3) The governing body or its designee may grant tentative approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7). An application for the establishment of a dwelling that has been tentatively approved shall be given final approval by the governing body or its designee upon receipt of evidence that the lot or parcel upon which establishment of the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 **or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855** and any additional tax imposed as the result of disqualification has been paid.

(4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

(a) Notify the county assessor that the lot or parcel is no longer being used as farmland **or for other specially assessed uses described in subsection (2) or (3) of this section;**

(b) Request that the county assessor disqualify the lot or parcel from special assessment under ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

(c) Pay any additional tax imposed upon disqualification from special assessment.

(5) Except as provided in subsection (6) of this section, a lot or parcel that has been disqualified pursuant to subsection (4) of this section may not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

(6)(a) A lot or parcel that has been disqualified pursuant to subsection (4) of this section may requalify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 **or conservation easement special assessment under sections 2 to 7 of this 2007 Act** without satisfying the requirements of subsection (5) of this section.

(b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430 **or disqualification from conservation easement special assessment under section 7 of this 2007 Act**, the lot or parcel shall be subject to the requirements of subsection (5) of this section.

(7) When the owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved notifies the county assessor that the lot or parcel is no longer being used as farmland and requests disqualification of the lot or parcel for special assessment at value for farm use, the county assessor shall:

(a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment by removing the special assessment;

(b) Provide the owner of the lot or parcel with written notice of the disqualification; and

(c) Impose the additional tax, if any, provided by statute upon disqualification.

(8) The Department of Consumer and Business Services, a building official, as defined in ORS 455.715 (1), or any other agency or official responsible for the administration and enforcement of the state building code, as defined in ORS 455.010, may not issue a building permit for the construction of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of the lot or parcel upon which the dwelling is proposed to be constructed has paid the additional tax, if any, imposed by the county assessor under subsection (7)(c) of this section.

SECTION 14. ORS 308A.724 is amended to read:

308A.724. (1)(a) In order for additional taxes imposed under ORS 308A.703 to be deferred under ORS 308A.706 (1)(d) (relating to change in special assessment), the owner must file an application or claim for classification under another special assessment law.

(b) If the disqualification is effective prior to July 1 in any year, the owner shall file the required claim or application on or before August 1 of that year.

(c) If the disqualification is effective on or after July 1 in any year, the county taxing authorities shall continue the classification on the current assessment and tax rolls, and the owner shall file the required claim or application in the next calendar year in accordance with the laws governing the particular special assessment program.

(2) If an owner of land disqualified under one of the special assessment laws listed in ORS 308A.706 (1)(d) seeks to qualify for farm use special assessment of nonexclusive farm use zone farmland under ORS 308A.068, the owner shall have five years, beginning with the first year in which application is made under this section, to qualify for the two-year farm use requirement of ORS 308A.068 and the income requirement under ORS 308A.071.

(3) Notwithstanding subsection (1) of this section, an owner may make application under this section at any time within 30 days of the date notice of disqualification is sent by the assessor under ORS 308A.718.

(4) Notwithstanding subsections (1) to (3) of this section[.];

(a) An owner of land disqualified from wildlife habitat special assessment under ORS 308A.430 that was previously subject to ORS 215.236 (5), **except for conservation easement special assessment**, may not apply for another special assessment under this section without first satisfying the requirements of ORS 215.236 (5)[.]; **and**

(b) An owner of land disqualified from conservation easement special assessment under section 7 of this 2007 Act, except for wildlife habitat special assessment, may not apply for another special assessment under this section without first satisfying the requirements of ORS 215.236 (5).

SECTION 15. ORS 308A.743 is amended to read:

308A.743. (1) Land that is specially assessed under ORS 308A.050 to 308A.128, 308A.300 to 308A.330, 308A.403 to 308A.430, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 **or sections 2 to 7 of this 2007 Act**, or land that is exempt from property tax under ORS 308A.350 to 308A.383, may not be disqualified from the special assessment or exemption, and may not be subject to additional taxes under ORS 308A.700 to 308A.733 or other law, if the property owner has:

(a) Entered into a wildlife habitat conservation and management plan, as described in ORS 308A.403 to 308A.430, approved by the State Department of Fish and Wildlife; or

(b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the land:

(A) Is managed in compliance with the conservation easement or deed restriction; and

(B) Continues to meet the requirements for special assessment or exemption. The existence of the conservation easement or deed restriction may not cause the disqualification of the land from special assessment or exemption or preclude the disqualification of the land from special assessment or exemption for some other reason.

(2) A property owner who executes a conservation easement may convey the easement to a land trust or other qualified entity without a loss of benefits under this section.

(3) In order for land to be subject to this section:

(a) The conservation easement, deed restriction or wildlife habitat conservation and management plan must be recorded in the records of the clerk of the county in which the land is located; and

(b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and management plan, along with the property tax account number for the land, must be sent to the county assessor.

SECTION 16. ORS 308A.712 is amended to read:

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

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

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

(2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of farmland) and subsequently the land is changed to an industrial, commercial, residential or other use incompatible with a return of the land to farm use, then:

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

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

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

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

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

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

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

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

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

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

(A) Five tax years; or

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

(6) In determining the additional tax under subsection (5) of this section, the number of continuous preceding years of special assessment counted shall not include those years in which the land was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior to a disqualification of the land for special assessment as exclusive farm use zone farmland under the conditions described in ORS 308A.709 (6).

SECTION 17. ORS 308A.733 is amended to read:

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

(2) This section applies to the following special assessment laws:

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

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

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

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

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

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

(g) **ORS 308A.403 to 308A.430 (relating to special assessment as wildlife habitat).**

(h) **Sections 2 to 7 of this 2007 Act (relating to special assessment as conservation easement).**

SECTION 18. ORS 271.785 is amended to read:

271.785. For the purpose of taxation, real property that is subject to [*a conservation easement or*] a highway scenic preservation easement shall be assessed on the basis of the real market value of the property less any reduction in value caused by the [*conservation easement or a*] highway scenic preservation easement. Such an easement shall be exempt from assessment and taxation the same as any other property owned by the holder.

SECTION 19. ORS 308A.707 is amended to read:

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

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

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

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

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

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

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

(B) The difference between the taxes that would have been assessed against the land under ORS 321.257 to 321.390, if located in western Oregon, or ORS 321.805 to 321.855, if located in eastern Oregon, and the taxes that would otherwise have been

assessed against the land, for the lesser of the number of consecutive years the land was forestland or five years.

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

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

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

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

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

SECTION 20. ORS 321.716 is amended to read:

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

- (a) Sale or transfer of the small tract forestland;
- (b) Discovery by the assessor that the land is no longer forestland;
- (c) The owner’s owning or holding in common ownership more than 5,000 acres of Oregon forestland;
- (d) The owner’s owning or holding in common ownership less than 10 acres of Oregon forestland;
- (e) Written notice from the State Forestry Department that the land no longer meets the stocking and species requirements applicable to small tract forestland under rules adopted by the Department of Revenue;
- (f) The land’s qualifying for another special assessment listed in ORS 308A.706 (1)(d)(A), (B), [or] (F) **or** (G); or
- (g) The recording of a subdivision plat under ORS chapter 92 that subdivides the land.

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

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

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

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

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

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

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

SECTION 21. Sections 2 to 7 of this 2007 Act and the amendments to ORS 215.236, 271.785, 308A.253, 308A.318, 308A.703, 308A.706, 308A.707, 308A.712, 308A.718, 308A.724, 308A.733, 308A.743 and 321.716 by sections 8 to 20 of this 2007 Act apply to tax years beginning on or after July 1, 2008.

Approved by the Governor July 17, 2007

Filed in the office of Secretary of State July 19, 2007

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