

Enrolled
House Bill 2293

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CHAPTER

AN ACT

Relating to Forest Resource Trust; creating new provisions; amending ORS 526.700, 526.705, 526.710, 526.725, 526.730, 526.735, 526.775 and 526.783; and repealing ORS 526.715.

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

SECTION 1. ORS 526.700 is amended to read:

526.700. (1) The Forest Resource Trust is established in the State Forestry Department. The Forest Resource Trust shall provide funds for financial, technical and related assistance to [*nonindustrial private*] **qualified private and local government** forestland owners for stand establishment and improved management of forestlands for timber production as well as wildlife, water quality and other environmental purposes.

(2) The members of the State Board of Forestry shall have overall responsibility for management of the Forest Resource Trust. The board is authorized to establish policies and programs in addition to those created by ORS 526.700 to 526.775 to further the purposes of the trust.

(3) The board shall appoint an advisory committee consisting of no more than 15 members representing the public, nonindustrial private forestland owners, the forest products industry, forest consultants and contractors, the financial community, environmental and conservation organizations and other related interests including affected state agencies. The advisory committee shall assist the board in setting policy for the best use and investment of funds available to the trust and otherwise assist board members in the performance of their duties as trustees.

(4) In accordance with any applicable provisions of ORS chapter 183, the board shall adopt rules to carry out the duties, functions and powers of the Forest Resource Trust and to guide implementation of the [*stand establishment program created under ORS 526.705*] **Forest Resource Trust programs.**

(5) The State Forester is responsible for implementing board policies and programs for the Forest Resource Trust.

SECTION 2. (1) The State Board of Forestry shall establish a voluntary cost share program to ensure that the purposes of the Forest Resource Trust are achieved. The purpose of the program is to provide financial and other incentives for stand establishment and improved management of nonindustrial private forestlands.

(2) In advancing moneys and providing other assistance for stand establishment and improved forest management, the State Forester shall:

(a) Give priority, to the extent possible, to lands zoned for forest use under county comprehensive plans and to other lands with moderate to high probability of success for long-term stand establishment and improved forest management activities; and

(b) Assist landowners in securing payments for ecosystem services.

SECTION 3. ORS 526.705 is amended to read:

526.705. (1) To carry out the duties, functions and powers of the Forest Resource Trust, there is created a voluntary [*stand establishment*] **loan** program to finance [*the establishment and maintenance of healthy stands of trees in an environmentally responsible manner on unstocked and under-producing nonindustrial private forestlands. The goal of the stand establishment program is to reforest 250,000 acres by the year 2010*] **establishment of stands of trees and the improved management of qualified private and local government forestlands.**

(2) In advancing moneys and providing other assistance for stand establishment, the State Board of Forestry shall:

(a) Give priority to lands zoned for forest uses under county comprehensive plans and to other lands with moderate to high probability of success [*in reforestation or environmental restoration*] **for long-term stand establishment and improved forest management activities; and**

[*(b) Consider development of financial and other incentives for good land management, compliance with plans for established stands, and for growth to maturity and harvest.*]

(b) Assist landowners in securing payments for ecosystem services.

(3) The [*board shall*] **State Board of Forestry may, by rule,** establish [*options*] **financial agreements** for the repayment of [*advanced*] moneys **advanced** consistent with subsection (2) of this section and including but not limited to the following, singly or in combination:

(a) A revenue-sharing proposal that guarantees the landowner a percentage of the receipts upon harvest after payment of harvest and severance taxes;

(b) Financial agreements; and

(c) Repayment in full with interest if a landowner fails to get the stand free to grow as that term is defined in the Oregon Forest Practices Act, unless said failure is through no fault of the landowner.

(4) The terms of repayment shall be based on considerations that represent the best use and investment of funds including:

[*(a) Reasonable assumptions regarding future timber prices and yield;*]

[*(b) (a) Rates of return, as established by the State Board of Forestry, that [sufficient to] provide a reasonable [and prudent] payback to the Forest Resource Trust of project costs [including, but not limited to, site preparation, planting, animal protection, release, planning and layout of treatment units, supervising the activities, and accounting and legal work];*

[*(c) (b) [Offsets attributable to] Measurable anticipated public benefits such as job creation, tax revenue, increased timber supply and environmental improvement; and*

[*(d) (c) The extent to which landowner contributions of money, labor or other resources reduce the risk to the Forest Resource Trust.*

(5) Participating landowners shall not be required to comply with forest practices beyond those required by state and federal law with the exception [*of*] **that planting standards for stand establishment** [*which*] may be more than the required minimum. [*Participating landowners who voluntarily agree to manage the established stand beyond minimum standards may be eligible for financial and other incentives if consistent with subsections (2) and (3) of this section. Payments to any landowner for stand establishment shall not exceed \$100,000 in any two-year period.*]

(6) The State Forester is authorized, on behalf of the Forest Resource Trust, to enter into contracts with eligible landowners to carry out the provisions of the voluntary loan program. The contracts may include, but are not limited to:

(a) Partial to full financing to the landowner, as specified in rules of the State Board of Forestry, from such moneys as may be available in the Forest Resource Trust Fund.

(b) Any obligations of the landowner for repayment of moneys advanced including, but not limited to:

(A) Terms for sharing the revenue gained from the sales of timber and forest products, including salvage, from the lands enrolled under the voluntary loan program;

(B) Acknowledgement that the rights and obligations of the landowner and the Forest Resource Trust and all of the terms of the contract are covenants that run with the land upon sale, lease or transfer of the land benefiting from the voluntary loan program until all future obligations of the contract are met;

(C) Financial terms allowing the landowner to terminate the contract;

(D) Agreement that there is no obligation to repay the moneys advanced prior to sale of timber and forest products from the land;

(E) Terms to protect the contract from modification unless both parties consent to modification;

(F) Allowance for different prescriptions for stand management; and

(G) Repayment in full with interest if the landowner fails to meet any terms of the contract.

(c) Acknowledgement by the landowner that the State Forester may require a statutory lien on the forest products.

(7) In addition to the contracts provided for in subsection (6) of this section, the State Forester, on behalf of the Forest Resource Trust, may require landowners to execute security agreements in favor of the trust to secure any repayment or other obligations of the landowner. Any security interest required shall have priority from the date of recording or filing.

(8)(a) The State Forester shall record a contract described in subsection (6) of this section with the recording officer of the county or counties in which the forestland is located.

(b) Upon recording, the rights and obligations of the landowner and the Forest Resource Trust under the contract shall become covenants that run with the land and shall be binding upon successors and assigns.

(c) The interest of the Forest Resource Trust created by recording the contract constitutes a purchaser's interest in real property for purposes of ORS 93.640.

(d) A memorandum of contract must include, but is not limited to:

(A) The date of execution of the contract;

(B) The name of each landowner of the forestland identified in the contract;

(C) A legal description of the forestland subject to the contract that conforms with ORS 93.600; and

(D) If the contract is secured by a lien as provided in ORS 526.735 to 526.775, a statement from each landowner acknowledging the lien.

(9) As used in this section, "eligible landowner" means a qualified private or local government forestland owner who:

(a) Owns land that qualifies as forestland, as defined by the State Board of Forestry.

(b) Has not received an exemption from reforestation requirements pursuant to rules adopted by the board under ORS 527.760.

SECTION 4. ORS 526.710 is amended to read:

526.710. To assist the State Board of Forestry in carrying out the duties of the Forest Resource Trust, the State Forestry Department shall:

(1) Identify potentially suitable lands, and [*market stand improvement services to*] **educate** the owners of those lands **on Forest Resource Trust programs**.

(2) Provide technical and other management assistance to participating landowners.

(3) Monitor compliance with [*the stand establishment program*] **Forest Resource Trust programs** by participating landowners.

(4) Encourage involvement of the landowner.

(5) Encourage the use of private contractors, consultants, [*and*] forestry extension programs, **nongovernmental organizations and landowner cooperatives**.

(6) Develop project plans in cooperation with landowners that establish clear benchmarks for compliance with terms of the plan.

(7) Release from financial obligation for any portion of the qualified private and local government forestlands included under Forest Resource Trust programs and irretrievably lost to insects, disease, fire, storm, flood or other natural destruction through no fault of the landowner.

(8) Secure provisions for access to the land by the State Forester.

(9) Give consideration to conservation plans or strategies adopted by the State Department of Fish and Wildlife when setting priorities for Forest Resource Trust programs.

SECTION 5. ORS 526.730 is amended to read:

526.730. The State Board of Forestry, after consultation with the advisory committee appointed pursuant to ORS 526.700, shall prepare and submit a [biennial] report to the **Seventy-sixth** Legislative Assembly [with regard to program accomplishments, the future structure of the Forest Resource Trust, alternatives to delivery of trust services by the State Forestry Department and changes to qualifications for landowner participation in the program. The board shall also enter into an agreement with an independent party to evaluate program goals, administration, problems and outcomes. The evaluation shall be made a part of any biennial report to the Legislative Assembly and shall be used by the board in consultation with the advisory committee in modifying terms and policies of the Forest Resource Trust] **that contains the following information regarding the Forest Resource Trust Fund:**

(1) **Program accomplishments;**

(2) **Financial assistance payments to participating landowners;**

(3) **Revenues received by the fund; and**

(4) **Expenditures made from the fund.**

SECTION 6. ORS 526.735 is amended to read:

526.735. As used in ORS [526.735] **526.700** to 526.775, unless the context otherwise requires:

(1) "Contract" means the contract signed by the forestland owner and the State Forester, acting on behalf of the Forest Resource Trust pursuant to ORS [526.715] **526.705**.

(2) "**Ecosystem services**" means **environmental benefits arising from the conservation and management of forestland, including, but not limited to, fish and wildlife habitat, clean water and air, pollination, mitigation of environmental hazards, control of pests and diseases, carbon sequestration, avoidance of carbon dioxide emissions and maintenance of soil productivity.**

[2] (3) "Forestland owner" means the individual, corporation, limited liability company, partnership, association, joint stock company, trustee, business trust or unincorporated organization holding fee simple ownership of land capable of producing forest products.

[3] (4) "Forest products" includes, but is not limited to, trees, logs, poles, lumber, chips or pulp that flow from investment of the Forest Resource Trust.

(5) "**Forest Resource Trust programs**" means **the voluntary cost share program established by section 2 of this 2007 Act, the voluntary loan program established by ORS 526.705 and other programs administered by the State Board of Forestry to further the purposes of the Forest Resource Trust pursuant to ORS 526.700 to 526.775.**

(6) "**Qualified private or local government forestland owner**" means **a private or local government forestland owner that qualifies for a specific Forest Resource Trust program, as described in rules adopted by the board.**

SECTION 7. ORS 526.783 is amended to read:

526.783. As a means of consistently reporting forestry carbon offsets created through programs established under ORS 526.725, 526.780 to 526.789, 530.050 or 530.500, the State Forester shall develop a forestry carbon offset accounting system for the registration, transfer or sale of forestry carbon offsets. The forestry carbon offset accounting system shall:

(1) Use accepted principles and standards relating to [the creation, measurement, accounting] **creating, measuring, monitoring,** marketing, verifying, registering, transferring and selling [of] carbon offsets used as mitigation for carbon dioxide emissions; and

(2) Be consistent with any rules adopted by the State Board of Forestry under ORS 526.786.

SECTION 8. ORS 526.715 is repealed.

SECTION 9. ORS 526.725 is amended to read:

526.725. (1) The State Board of Forestry or the State Forester may enter into agreements with private, governmental or other organizations and may accept contributions, gifts or grants from any source to carry out the duties, functions and powers of the Forest Resource Trust. All moneys received by the board or the State Forester pursuant to this section shall be deposited in the Forest Resource Trust Fund.

(2) The board may acquire, on behalf of the Forest Resource Trust, through exchange, lease or purchase, land only to the extent necessary to carry out the duties, functions and powers of the trust.

(3) Agreements with private, governmental or other organizations under subsection (1) of this section may specify the terms under which funds are invested and benefits accrue to the contributing party to the extent the agreement is consistent with the provisions of ORS 526.700 to 526.775.

(4) The State Forester may, on behalf of the Forest Resource Trust, market, register, transfer or sell forestry carbon offsets attributable to the lands enrolled in the stand establishment program under ORS [526.715] **526.705**. Prices for the transfer or sale of forestry carbon offsets may be negotiated but must be at or greater than fair market value.

(5) Nothing in ORS 526.700 to 526.775 is intended to create an enforceable trust on any agency or officer of the State of Oregon.

SECTION 10. ORS 526.775 is amended to read:

526.775. Notwithstanding ORS 526.735 to 526.775, if the forest landowner and the State Forester entered into a contract as provided in ORS [526.715] **526.705** and the contract is terminated or breached, and there are no forest products or accounts receivable subject to the lien created under ORS 526.740, any judgment entered against the landowner for breach or termination of the contract may be executed on any property of the landowner.

Passed by House April 16, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 8, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State