

House Bill 2992

Sponsored by Representative DINGFELDER; Representatives BOONE, BURLEY, COWAN, ROBLAN, WITT, Senators JOHNSON, VERGER

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 **as introduced**.

Allows division of lot or parcel in forest zone or mixed farm and forest zone into two parcels if one parcel is to be sold to provider of public parks or open space, or not-for-profit land conservation organization, and remaining parcel is large enough to support dwelling.

A BILL FOR AN ACT

1
2 Relating to division of resource land; creating new provisions; and amending ORS 215.780.

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

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 215.**

5 **SECTION 2. (1) Notwithstanding ORS 215.263 (10) or the minimum lot or parcel size re-**
6 **quirements under ORS 215.780, the governing body of a county or its designee may approve**
7 **a proposed division of land in a forest zone or a mixed farm and forest zone to create two**
8 **parcels if the proposed division of land is for the purpose of allowing a provider of public**
9 **parks or open space, or a not-for-profit land conservation organization, to purchase one of**
10 **the resulting parcels as provided in this section.**

11 **(2) A parcel created by the land division that is not sold to a provider of public parks or**
12 **open space or to a not-for-profit land conservation organization retains the date of creation**
13 **of the lot or parcel from which the resulting parcel is created and:**

14 **(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the**
15 **parcel must be large enough to support continued residential use or other allowed use of the**
16 **parcel; or**

17 **(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling**
18 **as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to**
19 **215.750, based on the size and configuration of the lot or parcel from which the resulting**
20 **parcel is created.**

21 **(3) Before approving a proposed division of land under this section, the governing body**
22 **of a county or its designee shall require as a condition of approval that the provider of public**
23 **parks or open space, or the not-for-profit land conservation organization, present for re-**
24 **recording in the deed records for the county in which the parcel is located an irrevocable deed**
25 **restriction prohibiting the provider of public parks or open space or the not-for-profit land**
26 **conservation organization and their successors in interest from:**

27 **(a) Developing the parcel; and**

28 **(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest**
29 **practices for which a claim or action is not allowed under ORS 30.936 or 30.937.**

30 **(4) If a proposed division of land under this section results in the disqualification of 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 **parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from**
 2 **designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as**
 3 **provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the di-**
 4 **vision.**

5 **SECTION 3.** ORS 215.780 is amended to read:

6 215.780. (1) Except as provided in subsection (2) of this section, the following minimum lot or
 7 parcel sizes apply to all counties:

- 8 (a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;
- 9 (b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and
- 10 (c) For land designated forestland, at least 80 acres.

11 (2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1)
 12 of this section in any of the following circumstances:

13 (a) By demonstrating to the Land Conservation and Development Commission that it can do so
 14 while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning
 15 goals adopted under ORS 197.230.

16 (b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed
 17 farm and forest use, subject to the following requirements:

18 (A) The parcel established shall not be larger than five acres, except as necessary to recognize
 19 physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

20 (B) The dwelling existed prior to June 1, 1995;

21 (C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division stan-
 22 dards of the zone; or

23 (ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and
 24 together the parcels meet the minimum land division standards of the zone; and

25 (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless sub-
 26 sequently authorized by law or goal.

27 (c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for
 28 mixed farm and forest use the following requirements apply:

29 (A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

30 (B) The tract shall be predominantly in forest use and that portion in forest use qualified for
 31 special assessment under a program under ORS chapter 321.

32 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and
 33 215.283 that are not allowed on forestland.

34 (d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that
 35 results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this
 36 section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

37 (A) Shall not be eligible for siting of a new dwelling;

38 (B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

39 (C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of
 40 resource lands;

41 (D) Shall not result in a parcel of less than 35 acres, except:

42 (i) Where the purpose of the land division is to facilitate an exchange of lands involving a gov-
 43 ernmental agency; or

44 (ii) Where the purpose of the land division is to allow transactions in which at least one par-
 45 ticipant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

1 (E) If associated with the creation of a parcel where a dwelling is involved, shall not result in
 2 a parcel less than the minimum lot or parcel size of the zone.

3 (e) To allow a division of a lot or parcel zoned for forest use or mixed farm and forest use under
 4 a statewide planning goal protecting forestland if:

5 (A) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

6 (B) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.213 (1)(t)
 7 or 215.283 (1)(s);

8 (C) Except for one lot or parcel, each lot or parcel created under this paragraph is between two
 9 and five acres in size;

10 (D) At least one dwelling is located on each lot or parcel created under this paragraph; and

11 (E) The landowner of a lot or parcel created under this paragraph provides evidence that a re-
 12 striction prohibiting the landowner and the landowner's successors in interest from further dividing
 13 the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel
 14 is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of
 15 release is signed by the county planning director of the county in which the lot or parcel is located
 16 indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have
 17 been changed so that the lot or parcel is no longer subject to statewide planning goals protecting
 18 forestland or unless the land division is subsequently authorized by law or by a change in a state-
 19 wide planning goal for land zoned for forest use or mixed farm and forest use.

20 **(f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone**
 21 **as provided in section 2 of this 2007 Act.**

22 (3) A county planning director shall maintain a record of lots and parcels that do not qualify for
 23 division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record
 24 shall be readily available to the public.

25 (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
 26 dwelling on the lot or parcel was approved under:

27 (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that
 28 required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

29 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest
 30 use zone under a statewide planning goal protecting forestland.

31 (5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to
 32 ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under
 33 ORS 197.628[*197.633 and 197.636*] **to 197.650** that is smaller than those prescribed in subsection (1)
 34 of this section need not comply with subsection (2) of this section.

35 (6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall
 36 provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been
 37 recorded with the county clerk of the county where the property is located. An applicant for the
 38 creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a re-
 39 striction on the newly created parcel has been recorded with the county clerk of the county where
 40 the property is located. The restriction shall allow no dwellings unless authorized by law or goal
 41 on land zoned for forest use except as permitted under subsection (2) of this section.

42 (b) A restriction imposed under this subsection shall be irrevocable unless a statement of release
 43 is signed by the county planning director of the county where the property is located indicating that
 44 the comprehensive plan or land use regulations applicable to the property have been changed in
 45 such a manner that the parcel is no longer subject to statewide planning goals pertaining to agri-

1 cultural land or forestland.

2 (c) The county planning director shall maintain a record of parcels that do not qualify for the
3 siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily
4 available to the public.

5 (7) A landowner allowed a land division under subsection (2) of this section shall sign a state-
6 ment that shall be recorded with the county clerk of the county in which the property is located,
7 declaring that the landowner and the landowner's successors in interest will not in the future com-
8 plain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

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