

# House Bill 3364

Sponsored by Representative WITT; Representatives BARNHART, BOONE, BOQUIST, BRUUN, BUCKLEY, CLEM, DALLUM, GARRARD, GIROD, HANNA, HOLVEY, KRIEGER, MORGAN, NOLAN, ROBLAN, ROSENBAUM, SCHAUFLEER, G SMITH, P SMITH, WHISNANT (at the request of Oregon Small Woodlands Association)

## 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**.

Adds fees for inspection and certification of reforestation projects by State Forester to costs included in project costs for purposes of income tax credit for reforestation projects.

Applies to tax credits claimed for tax years beginning on or after January 1, 2008.

## A BILL FOR AN ACT

1 Relating to tax credits for reforestation; creating new provisions; and amending ORS 315.104.

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

3 **SECTION 1.** ORS 315.104 is amended to read:

4 315.104. (1) A credit against the taxes otherwise due under ORS chapter 316 (or if the taxpayer  
5 is a corporation, under ORS chapter 317 or 318) shall be allowed in an amount equal to 50 percent  
6 of reforestation project costs actually paid or incurred to reforest underproductive Oregon  
7 forestlands. Such costs include, but are not limited to, **any fees established by the State Forester**  
8 **under ORS 526.490 (5)(c)**, site preparation, tree planting and other silviculture treatments consid-  
9 ered necessary by the State Forester to establish commercial, hardwood or softwood stands on ap-  
10 propriate sites. Subject to subsection (5) of this section:

11 (a) One-half of the credit shall be taken in the tax year for which the State Forester, after  
12 physical inspection of the forestland, issues a preliminary certificate under ORS 315.106 certifying  
13 that the land qualifies as underproductive Oregon forestland and that the reforestation project  
14 undertaken meets the requirements of this section and the specifications established by the State  
15 Forester and the costs appear to be reasonable; and

16 (b) One-half of the credit shall be taken in the tax year for which the State Forester, after fur-  
17 ther physical inspection of the land and project, certifies that the new forest is established in ac-  
18 cordance with the specifications of the State Forester.

19 (2) No credit shall be allowed under either subsection (1)(a) or (b) of this section unless written  
20 certification containing the following statements accompanies the claim for the credit or is other-  
21 wise filed with the Department of Revenue:

22 (a) A preliminary certificate issued by the State Forester under ORS 315.106 that the land and  
23 project meet the preliminary specifications established by the State Forester or that the new forest  
24 is established, whichever is applicable at the time.

25 (b) A statement by the landowner or person in possession of the land that the land within the  
26 project area will be used for the primary purpose of growing and harvesting trees of an acceptable  
27 species.

28 (c) A statement that the landowner or person in possession of the land is aware that mainte-  
29 nance practices, including release, may be needed to insure that a new forest is established and will  
30

**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 remain established.

2 (3) For purposes of this section, reforestation project costs shall not include:

3 (a) Costs paid or incurred to reforest any forestland that has been commercially logged to the  
4 extent that reforestation is required under the Oregon Forest Practices Act, except costs paid or  
5 incurred to reforest forestland following a hardwood harvest, conducted for the purposes of con-  
6 verting underproductive forestlands, as determined by administrative rule.

7 (b) That portion of costs or expenses paid through a federal or state cost share, financial as-  
8 sistance or other incentive program.

9 (c) Those costs paid or incurred to grow Christmas trees, ornamental trees, shrubs or plants,  
10 or those costs paid or incurred to grow hardwood timber described under ORS 321.267 (3) or 321.824  
11 (3).

12 (d) Any costs paid or incurred to purchase or otherwise acquire the land.

13 (e) The cost of purchase or other acquisition of tools and equipment with a useful life of more  
14 than one year.

15 (4) To qualify for the credit:

16 (a) The project must be completed to specifications approved by the State Forester.

17 (b) The taxpayer's portion of the project costs must be \$500 or more.

18 (c) The taxpayer must be a private individual, corporation, group, Indian tribe or other native  
19 group, association or other nonpublic legal entity owning, purchasing under recorded contract of  
20 sale or leasing at least five acres of Oregon commercial forestland.

21 (5) Any tax credit otherwise allowable under this section which is not used by the taxpayer in  
22 a particular year may be carried forward and offset against the taxpayer's tax liability for the next  
23 succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried  
24 forward and used in the second succeeding tax year, and likewise, any credit not used in that second  
25 succeeding tax year may be carried forward and used in the third succeeding tax year, but may not  
26 be carried forward for any tax year thereafter. In all cases the taxpayer must be the person who  
27 made the investment into the project.

28 (6) The credit provided by this section shall be in addition to and not in lieu of any depreciation  
29 or amortization deduction to which the taxpayer otherwise may be entitled with respect to the  
30 reforestation project and the credit shall not affect the computation of basis for the property.

31 (7) In compliance with ORS chapter 183, the Department of Revenue and the State Forestry  
32 Department may adopt rules consistent with law for carrying out the provisions of this section.

33 (8) As used in this section, "underproductive Oregon forestlands" means Oregon commercial  
34 forestlands not meeting the minimum stocking standards of the Oregon Forest Practices Act.

35 (9) If, for any reason other than those specified in subsection (10) of this section, a new forest  
36 is not established by the last day of the second taxable year following the taxable year for which  
37 the preliminary certificate was issued, the State Forester shall so report to the Department of Re-  
38 venue. The report filed under this subsection shall be the basis for the department to recover any  
39 credit granted under subsection (1)(a) of this section. If, however, the new forest is not established  
40 within the time required by this subsection on account of the reasons specified in subsection (10)  
41 of this section, any credit allowed under subsections (1)(a) and (5) of this section shall not be re-  
42 covered but no further credit as provided under subsections (1)(b) and (5) of this section shall be  
43 allowed.

44 (10) Subject to requalification under this section in the manner applicable for the original claim,  
45 including obtaining a new preliminary certificate, a taxpayer may claim an additional credit or

1 credits for reestablishing a new planting in the event that the new forest is destroyed by a natural  
2 disaster or is not established for reasons beyond the control of the taxpayer, if the measures taken  
3 in completing the original or earlier project would normally have resulted in establishing the mini-  
4 mum number of trees per acre anticipated by the project.

5 (11) Any owner affected by a determination, regarding the reforestation tax credit made by:

6 (a) The State Forester, except for a denial of a request for a preliminary certificate due to the  
7 annual reforestation credit cost limitation calculated under ORS 315.108, may appeal that determi-  
8 nation in the manner provided for in ORS 526.475 (1).

9 (b) The Department of Revenue, may appeal that determination in the manner provided for in  
10 ORS 526.475 (2).

11 **SECTION 2. The amendments to ORS 315.104 by section 1 of this 2007 Act apply to tax**  
12 **credits claimed for tax years beginning on or after January 1, 2008.**