

Senate Bill 866

Sponsored by Senator FERRIOLI (at the request of Jack Hay)

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**.

Lowers minimum lot or parcel size for land zoned for exclusive farm use to 40 acres if land is irrigated and planted with wine grape vines and each lot or parcel created by land division satisfies farm income test for determining whether farm dwelling is allowed use.

A BILL FOR AN ACT

1
2 Relating to minimum acreage of land zoned for exclusive farm use; amending ORS 215.780.

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

4 **SECTION 1.** ORS 215.780 is amended to read:

5 215.780. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)** of this section, the
6 following minimum lot or parcel sizes apply to all counties:

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

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

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

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

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

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

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

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

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

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

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

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

31 (C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and

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.

1 215.283 that are not allowed on forestland.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (f) To allow a proposed division of land in a forest zone or a mixed farm and forest zone as
 34 provided in ORS 215.783.

35 **(3) Notwithstanding subsection (1) of this section, for land zoned for exclusive farm use,
 36 the minimum lot or parcel size is 40 acres if:**

37 **(a) The land is irrigated and planted with wine grape vines; and**

38 **(b) Each lot or parcel created by the land division satisfies a rule adopted by the Land
 39 Conservation and Development Commission that establishes a farm income standard to de-
 40 termine whether a dwelling is customarily provided in conjunction with farm use.**

41 [(3)] (4) A county planning director shall maintain a record of lots and parcels that do not
 42 qualify for division under the restrictions imposed under subsections (2)(e) and [(4)] (5) of this sec-
 43 tion. The record shall be readily available to the public.

44 [(4)] (5) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing
 45 dwelling on the lot or parcel was approved under:

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

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

5 [(5)] (6) A county with a minimum lot or parcel size acknowledged by the commission pursuant
6 to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements
7 under ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section
8 need not comply with subsection (2) of this section.

9 [(6)(a)] (7)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this sec-
10 tion shall provide evidence that a restriction on the remaining parcel, not containing the dwelling,
11 has been recorded with the county clerk of the county where the property is located. An applicant
12 for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that
13 a restriction on the newly created parcel has been recorded with the county clerk of the county
14 where the property is located. The restriction shall allow no dwellings unless authorized by law or
15 goal on land zoned for forest use except as permitted under subsection (2) of this section.

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

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

24 [(7)] (8) A landowner allowed a land division under subsection (2) of this section shall sign a
25 statement that shall be recorded with the county clerk of the county in which the property is lo-
26 cated, declaring that the landowner and the landowner's successors in interest will not in the future
27 complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

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