

# Senate Bill 886

Sponsored by COMMITTEE ON FINANCE AND REVENUE

## 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**.

Creates certification process for qualification or continued qualification of small tract forestland. Requires owner of small tract forestland to file return with Department of Revenue.

## A BILL FOR AN ACT

1  
2 Relating to small tract forestland program; creating new provisions; and amending ORS 308A.730,  
3 321.706, 321.709, 321.716, 321.719 and 321.733.

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

5 **SECTION 1.** ORS 321.706 is amended to read:

6 321.706. (1) An owner of forestland seeking to have the forestland qualified under ORS 321.700  
7 to 321.754 shall [*apply to*] **file a certificate under penalty of perjury with** the county assessor of  
8 the county in which the forestland is located [*for qualification of*] **certifying that** the forestland  
9 **qualifies** as small tract forestland **under ORS 321.709**. If the forestland to be qualified is located  
10 in more than one county, the owner shall [*apply for qualification to*] **file the certificate required**  
11 **by this section with** the county assessor of each county in which the forestland is located.

12 (2) [*An application*] **The certificate** shall be [*made*] on a form prescribed by the Department of  
13 Revenue and supplied by the county assessor that contains:

14 (a) The name and address of the forestland owner;

15 (b) The taxpayer identification number of the forestland owner;

16 (c) A statement listing the county and containing a description sufficient to identify the location  
17 of all land for which **qualification as** small tract forestland [*qualification*] is sought;

18 (d) A statement describing the uses of the land for which qualification as small tract forestland  
19 is sought;

20 (e) A statement indicating the extent to which the land that [*has been*] **is** the subject of the  
21 [*application*] **certificate** has been platted under ORS chapter 92;

22 (f) The total acreage of Oregon forestland owned or held in common ownership by the owner;

23 (g) A statement that the [*applicant*] **forestland owner** is aware of the potential tax liability that  
24 arises under ORS 308A.707 **if the land for which certification is made does not qualify as** [*upon*  
25 *disqualification of*] small tract forestland;

26 (h) [*An affirmation that the statements contained in the application are true*] **A declaration under**  
27 **penalty of perjury as described in ORCP 1 E**; and

28 (i) Any other relevant information the department may prescribe.

29 (3) The [*applicant*] **forestland owner** shall file the [*application*] **certificate** with the county  
30 assessor on or before the later of:

31 (a) April 1 of the first assessment year for which the forestland is to be qualified as small tract

**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 forestland;

2 (b) In the case of land that is omitted property, within 30 days of the notice of assessment of  
3 the property as omitted property; or

4 (c) December 15 of the first assessment year for which the forestland is to be qualified as small  
5 tract forestland if:

6 (A) For the prior assessment year the land was highest and best use forestland; and

7 (B) For the current assessment year the land is being assessed at a value reflecting a use other  
8 than highest and best use forestland.

9 (4) **Upon receipt of the certificate**, the county assessor shall *[review an application and]* qual-  
10 ify the forestland under ORS 321.700 to 321.754 *[if]* **unless it appears on the face of the certificate**  
11 **that the land does not meet** *[meets]* the qualifications for small tract forestland under ORS 321.709.

12 (5) Land that qualifies as small tract forestland is also disqualified from any other special as-  
13 sessment program as of the tax year for which the land first qualifies as small tract forestland.

14 (6) *[An application]* **A certificate** shall be deemed approved unless, within three months of the  
15 date the *[application]* **certification** was made or before August 15 of the year in which the *[appli-*  
16 *cation]* **certificate** was filed, whichever is later, the county assessor notifies the *[applicant]*  
17 **forestland owner** in writing that the *[application]* **certificate** has been wholly or partially denied.

18 (7) A taxpayer may appeal the decision of the county assessor to wholly or partially deny *[an*  
19 *application for small tract forestland qualification]* **a certificate** to the tax court in the time and  
20 manner prescribed under ORS 305.404 to 305.560.

21 (8) In the case of property that qualifies as small tract forestland, the county assessor shall send  
22 to the department a written notification of the qualification and a copy of the *[application]* **certif-**  
23 **icate**.

24 **SECTION 2.** ORS 321.709 is amended to read:

25 321.709. (1) To qualify for small tract forestland assessment under ORS 321.700 to 321.754 for  
26 each tax year:

27 (a) The owner of the land that is the subject of *[an application]* **a certificate** filed under ORS  
28 321.706 must own or hold common ownership interest in at least 10 acres of Oregon forestland but  
29 less than 5,000 acres of Oregon forestland;

30 (b) The land that is the subject of the *[application]* **certificate** must constitute all forestland  
31 within a single tax lot and all forestland within contiguous parcels owned or held in common own-  
32 ership by the owner; and

33 (c) The forestland that is the subject of the *[application]* **certificate** must meet minimal stocking  
34 and species requirements applicable to forestland under rules adopted by the Department of Re-  
35 venue.

36 (2)(a) Whether land qualifies for small tract forestland assessment shall be determined as of  
37 January 1 of each assessment year.

38 (b) If land qualified for small tract forestland assessment under this section as of January 1 of  
39 an assessment year but is disqualified from small tract forestland assessment prior to July 1 of the  
40 same assessment year, the land shall be assessed as provided under ORS 308.146 or as otherwise  
41 provided by law.

42 (c) If land qualified for small tract forestland assessment under this section as of January 1 of  
43 an assessment year but ceases to meet the qualifications for small tract forestland assessment on  
44 or after July 1, the land shall continue to be assessed as small tract forestland for the current tax  
45 year.

1 (d) The land that is the subject of the [*application*] **certificate** must not have been disqualified  
 2 from small tract forestland assessment under ORS 321.700 to 321.754 for any of the five tax years  
 3 preceding the year for which small tract forestland assessment is sought under this section.

4 (3) For each year that land qualifies for small tract forestland assessment, the county assessor  
 5 shall enter the notation “potential additional tax liability” on the assessment and tax roll.

6 **SECTION 3.** ORS 321.716 is amended to read:

7 321.716. (1) The county assessor shall disqualify land as small tract forestland upon:

8 (a) Sale or transfer of the small tract forestland;

9 (b) Discovery by the assessor that the land is no longer forestland;

10 (c) The owner’s owning or holding in common ownership more than 5,000 acres of Oregon  
 11 forestland;

12 (d) The owner’s owning or holding in common ownership less than 10 acres of Oregon forestland;

13 (e) Written notice from the State Forestry Department that the land no longer meets the  
 14 stocking and species requirements applicable to small tract forestland under rules adopted by the  
 15 Department of Revenue;

16 (f) The land’s qualifying for another special assessment listed in ORS 308A.706 (1)(d)(A), (B), (F)  
 17 or (G); or

18 (g) The recording of a subdivision plat under ORS chapter 92 that subdivides the land.

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

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

24 (b) [*Submission of an application*] **Certification that the land qualifies** for small tract  
 25 forestland assessment under ORS 321.706 [*and approval of the application by the county assessor*]; and

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

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

33 (b) The land shall automatically qualify for special assessment under ORS 321.257 to 321.390 or  
 34 321.805 to 321.855, whichever is applicable, unless the assessor determines that the land does not  
 35 constitute forestland.

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

38 **SECTION 4.** ORS 321.719 is amended to read:

39 321.719. (1) Notwithstanding ORS 321.716 (1)(a), if the sale or transfer of small tract forestland  
 40 is to a person who, following the date of the sale or transfer, does not own or hold in common  
 41 ownership less than 10 acres or 5,000 acres or more of forestland in Oregon, the sold or transferred  
 42 forestland may remain small tract forestland, if:

43 (a) Within 30 days after the date the county assessor issues the notice of intent to disqualify  
 44 under ORS 321.716, the purchaser or transferee [*has applied for*] **files a certificate under penalty**  
 45 **of perjury of** continued qualification of the small tract forestland;

1 (b) The purchaser or transferee is otherwise eligible to be an owner of small tract forestland  
2 under ORS 321.700 to 321.754; and

3 (c) Any forestland owned or held in common ownership by the purchaser or transferee that is  
4 a contiguous parcel to the purchased or transferred forestland is:

5 (A) Qualified as small tract forestland or is the subject of *[an application for]* **a certificate of**  
6 qualification under ORS 321.706; or

7 (B) Included as part of the *[application for]* **certificate of** continued qualification filed under this  
8 section, and the additional information required in *[an application for]* **a certificate of** qualification  
9 of small tract forestland under ORS 321.706 is included in the *[application for]* **certificate of** con-  
10 tinued qualification filed under this section.

11 (2)(a) A purchaser or transferee described in subsection (1) of this section shall *[apply for]* **file**  
12 **a certificate of** continued qualification *[to]* **with** the county assessor of the county in which the  
13 forestland that is the subject of the sale or transfer is located. If the forestland is located in more  
14 than one county, the purchaser or transferee shall *[apply for]* **file the certificate of** continued  
15 qualification *[to]* **with** the county assessor of each county in which the forestland is located.

16 (b) The *[application]* **certificate of continued qualification** shall be on a form prescribed by the  
17 Department of Revenue and supplied by the county assessor that contains:

18 (A) The name and address of the seller or transferor of the small tract forestland;

19 (B) The name, address and taxpayer identification number of the purchaser or transferee of the  
20 small tract forestland;

21 (C) A statement listing the county and containing a description sufficient to identify the location  
22 of the small tract forestland being purchased or transferred;

23 (D) A statement listing the county and containing a description sufficient to identify the location  
24 of all parcels of land owned or held in common ownership by the purchaser or transferee that are  
25 contiguous to the small tract forestland that is being purchased or transferred;

26 (E) The total acreage of Oregon forestland owned or held in common ownership by the pur-  
27 chaser or transferee;

28 (F) A statement that the *[applicant]* **purchaser or transferee** is aware of the potential tax li-  
29 ability that arises under ORS 308A.707;

30 (G) *[An affirmation that the statements contained in the application are true]* **A declaration under**  
31 **penalty of perjury as described in ORCP 1 E;** and

32 (H) Any other relevant information the department may prescribe.

33 (3) **Upon receipt of the certificate of continued qualification**, the assessor shall *[review the*  
34 *application and]* grant the continued qualification of the land as small tract forestland following the  
35 sale or transfer *[if the purchaser or transferee satisfies]* **unless it appears on the face of the cer-**  
36 **tificate of continued qualification that** the requirements of subsection (1) of this section **have not**  
37 **been met.**

38 (4)(a) If the *[application for]* **certificate of** continued qualification is filed prior to July 1 of the  
39 assessment year, the assessor shall process the *[application for]* **certificate of** continued qualifica-  
40 tion for the tax year beginning that July 1.

41 (b) If the notice of intent to disqualify is issued on or after June 1 of the assessment year, the  
42 assessor may not disqualify the land as small tract forestland for the tax year beginning July 1, and  
43 shall process the *[application for]* **certificate of** continued qualification for the tax year beginning  
44 the next succeeding July 1.

45 (c) *[An application for]* **A certificate of** continued qualification shall be deemed approved unless,

1 within three months of the date the [application] **certification** was made or before August 15 of the  
 2 year in which the [application] **certificate** was filed, whichever is later, the county assessor notifies  
 3 the purchaser or transferee in writing that the [application] **certificate of continued qualification**  
 4 has been wholly or partially denied.

5 (5) A purchaser or transferee may appeal the decision of the county assessor to wholly or par-  
 6 tially deny [an application for] a **certificate of** continued qualification to the tax court in the time  
 7 and manner prescribed under ORS 305.404 to 305.560.

8 (6) In the case of [an application for] a **certificate of** continued qualification that is approved  
 9 by the county assessor, the assessor shall send a written notification of the approval and a copy of  
 10 the [application] **certificate of continued qualification** to the department.

11 (7) For purposes of computing additional taxes under ORS 308A.707, upon a subsequent dis-  
 12 qualification of small tract forestland that is granted continued qualification under this section, the  
 13 small tract forestland is considered to have been subject to small tract forestland assessment with-  
 14 out interruption from the period before the sale or transfer to the date of subsequent disqualification  
 15 from small tract forestland assessment.

16 (8) Notwithstanding subsection (1) of this section, a purchaser or transferee of small tract  
 17 forestland may file [an application for] a **certificate of** continued qualification of the small tract  
 18 forestland after the date prescribed in subsection (1) of this section if:

19 (a) The [application] **certificate** is filed on or before December 15 of the first tax year for which  
 20 the forestland would otherwise be disqualified from small tract forestland assessment; and

21 (b) The [applicant] **purchaser or transferee** pays a \$200 late filing fee at the time the [appli-  
 22 cation] **certificate** is filed.

23 **SECTION 5.** ORS 321.733 is amended to read:

24 321.733. (1) [The Department of Revenue shall mail a severance tax return form to] An owner of  
 25 timber harvested from lands assessed as small tract forestland, as shown on a State Forestry De-  
 26 partment Notification of Operations permit issued during a calendar year[.]

27 [(2) Any owner of timber receiving a severance tax return mailed by the Department of Revenue  
 28 shall complete the return], **shall complete a severance tax return on a form prescribed by the**  
 29 **Department of Revenue** and submit the return to the department within the time prescribed in  
 30 ORS 321.741, even if the owner of timber has not incurred severance tax liability during the calen-  
 31 dar year.

32 **(2) Failure to file the return required by subsection (1) of this section or to pay the**  
 33 **severance tax due under ORS 321.741 may subject the owner to the penalties described in**  
 34 **ORS 321.560.**

35 **SECTION 6.** ORS 308A.730 is amended to read:

36 308A.730. (1) If land specially valued under ORS 308A.062, 308A.068, 321.257 to 321.390, 321.700  
 37 to 321.754 or 321.805 to 321.855 is acquired by a governmental agency or body as a result of an ex-  
 38 change of the land for land of approximately equal value held by the governmental agency or body  
 39 and the land acquired from the governmental agency or body is not farm use land located within  
 40 an exclusive farm use zone or is not land, the highest and best use of which is the growing and  
 41 harvesting of trees of a marketable species, the owner shall make application **or file a certificate**  
 42 for special valuation as farm or forest land in the manner provided under ORS 308A.077, 321.358,  
 43 321.706 or 321.839, whichever is applicable, as follows:

44 (a) If the exchange takes place prior to July 1, the owner shall file the application **or certificate**  
 45 on or before August 1.

1 (b) If the exchange takes place on or after July 1, the owner shall file the application **or cer-**  
 2 **tificate** on or before April 1 of the following year.

3 (2) Failure to file an application **or certificate** as required under this section, or failure to  
 4 otherwise meet the qualification for special valuation under the special assessment law for which  
 5 application is made **or a certificate is filed** shall disqualify the land under ORS 308A.703. However,  
 6 the amount of additional taxes imposed upon the disqualification under this subsection shall be equal  
 7 to those that would have been imposed against the land transferred to the governmental agency or  
 8 body on account of the exchange were it not for ORS 308A.706 (1)(b).

9 (3) If an application filed under this section is for classification for farm use special assessment  
 10 under ORS 308A.068, the owner shall have five years beginning with the first year of classification  
 11 to meet the income requirements under ORS 308.372 and need not meet the two-year farm use re-  
 12 quirements of ORS 308A.068.

13 (4) This section does not apply to an exchange of forestland to which ORS 308A.706 (1)(b) (re-  
 14 lating to governmental exchange) applies.

15 **SECTION 7. The amendments to ORS 308A.730, 321.706, 321.709, 321.716, 321.719 and**  
 16 **321.733 by sections 1 to 6 of this 2009 Act apply to requests for qualification or continued**  
 17 **qualification of small tract forestland made on or after the effective date of this 2009 Act.**

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