

Senate Bill 983

Sponsored by Senators TELFER, METSGER, Representatives ROBLAN, WHISNANT; Representative STIEGLER

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**.

Authorizes development of Skyline Forest Sustainable Development Area. Makes development of area contingent on satisfaction of certain conditions, including transfer of Skyline Forest and all or part of Southern Conservation Tract to land trust or public agency. Provides Deschutes Land Trust right of first opportunity to purchase tracts. Specifies procedures and criteria by which owner of Skyline Forest Sustainable Development Area may develop area.

A BILL FOR AN ACT

Relating to agreement for limited development of forestlands in Deschutes and Klamath Counties.

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

SECTION 1. As used in sections 1 to 9 of this 2009 Act:

(1) "Community forestlands" has the meaning given that term in ORS 530.600.

(2) "Land trust" means the Deschutes Land Trust, an Oregon nonprofit corporation or another nonprofit conservation organization that is either accredited by the Land Trust Accreditation Commission or is nationally recognized as a land conservation organization, the primary mission of which is land conservation.

(3) "Skyline Conservation Tract" means the portion of the Skyline Forest consisting of approximately 30,000 contiguous acres that is not included within the Skyline Forest Sustainable Development Area.

(4) "Skyline Forest" means that certain real property consisting of approximately 33,000 contiguous acres in Deschutes County owned on June 1, 2009, by Cascade Timberlands (Oregon) LLC and located within sections 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, township 16 south, range 10 east; sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 35 and 36, township 17 south, range 10 east; and sections 6, 7, 8, 9, 17, 18, 19, 20, 29, 30, 31, 32 and 33, township 17 south, range 11 east.

(5) "Skyline Forest Sustainable Development Area" means a portion of up to 3,000 contiguous acres of the tract known as the Skyline Forest that is located in township 16 south, range 10 east, Deschutes County: portions of the northwest quarter, southwest quarter, southeast quarter, northeast quarter of section 7; portions of the northwest quarter, southwest quarter, southeast quarter of section 8; portions of the southwest quarter of section 16; portions of the northwest quarter, southwest quarter, southeast quarter, northeast quarter of section 17; portions of the northwest quarter, southwest quarter, southeast quarter, northeast quarter of section 18; section 19; portions of the northwest quarter, southwest quarter, northeast quarter of section 20; portions of the northwest quarter of section 21; portions of the northwest quarter of section 29; and portions of the north half of section 30.

(6) "Southern Conservation Tract" means that certain real property consisting of ap-

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 proximately 34,700 acres in Deschutes and Klamath Counties owned on June 1, 2009, by Cas-
2 cade Timberlands (Oregon) LLC and located within one of the following areas:

3 (a) Area one consists of approximately 14,000 acres of land located within sections 1, 2,
4 3, 10, 11, 12, 13, 14, 15, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34 and 35 of township 22 south, range
5 9 east, Deschutes County; sections 5, 6, 7, 8, 17, 18, 30 and 31 of township 22 south, range 10
6 east, Deschutes County;

7 (b) Area two consists of approximately 9,700 acres of land located within sections 2, 3,
8 4, 5, 9, 10, 11, 14, 15, 17, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32, 33 and 34 of township 23 south,
9 range 9 east, Klamath County, and the portion of Parcel 3, Partition Plat No. 34-08 located
10 in township 23 south, range 9 east, Klamath County; and

11 (c) Area three consists of approximately 11,000 acres of land located within sections 14,
12 23, 24, 25, 26, 34 and 35 of township 23 south, range 9 east; sections 3, 4, 8, 9 and 17 of
13 township 24 south, range 9 east; section 1 of township 25 south, range 7 east; sections 1, 2,
14 3, 4, 9, 10, 12, 13, 14, 15, 16 and 17 of township 25 south, range 8 east; Parcel 1, Partition Plat
15 No. 34-08, located in township 24 south, ranges 7 and 8 east, and township 25 south, range 8
16 east, Klamath County; and the portion of Parcel 3, Partition Plat No. 34-08, located in town-
17 ship 24 south, ranges 8 and 9 east, Klamath County, and all lands lying west of U.S. Route
18 97.

19 **SECTION 2.** The Legislative Assembly finds that:

20 (1) The Skyline Forest, also known as the Bull Springs Tree Farm, is a forest resource
21 of statewide significance with a unique relationship to the cities of Bend and Sisters. Its
22 33,000 acres of undeveloped forestlands have supported the economy through commercial
23 forestry and have provided significant wildlife habitat, recreational opportunities and a buffer
24 between the rapidly growing urban areas and the eastern flanks of Three Sisters and Broken
25 Top.

26 (2) Existing law permits privately owned forestland to be divided into parcels over time
27 and developed with forest dwellings. Such fragmented development has occurred along the
28 borders of the Skyline Forest. According to the latest federal decennial census, Bend is one
29 of the fastest growing communities in the country. As Bend continues to grow, increased
30 market demand for exurban residential development in close proximity to Bend will acceler-
31 ate the pressure to divide and develop large forested tracts such as the Skyline Forest.

32 (3) Retention of a large, continuous block of undeveloped forestland in community forest
33 management would preserve the scenic, recreational, commercial timber and wildlife habitat
34 values of the Skyline Forest.

35 (4) In 2005, Deschutes County demonstrated its commitment to community management
36 of the Skyline Forest by creating a community forest authority under ORS 530.600 to 530.628
37 to generate funds for acquisition and management of all or a portion of the Skyline Forest
38 as community forestland. In exchange for authorization of the development of a sustainable
39 community on approximately 3,000 acres in the northwest corner of the Skyline Forest, the
40 private owner will sell approximately 30,000 acres of Skyline Forest to a land trust for man-
41 agement as community forestland and approximately 34,700 acres of forestland in southern
42 Deschutes County and northern Klamath County to either a land trust for the purpose of
43 creating community forestland or to a federal or state land management agency.

44 (5) Sections 1 to 9 of this 2009 Act are consistent with a statewide land use planning goal
45 relating to forestlands by maintaining the forestland base and making possible economically

1 efficient forest practices that ensure the continuous growing and harvesting of forest tree
 2 species as the leading use on forestland. The state, in cooperation with Deschutes County,
 3 can protect the majority of Skyline Forest from the exurban development pressures associ-
 4 ated with the growth of the Bend area by fostering the creation of the Skyline Community
 5 Forest pursuant to sections 1 to 9 of this 2009 Act.

6 **SECTION 3. (1) Contingent upon satisfaction of the requirements of section 4 of this 2009**
 7 **Act, the Skyline Forest Sustainable Development Area:**

8 (a) May be developed and used for the following purposes:

9 (A) Up to 282 permanent residences, rental units and lodging units;

10 (B) A caretaker's residence;

11 (C) A restaurant;

12 (D) A small community store;

13 (E) A small-scale community conference center;

14 (F) An equestrian facility;

15 (G) Small-scale recreational, commercial and basic service uses; and

16 (H) All utility, maintenance and security facilities necessary to support the development.

17 (b) May not include a golf course or golf-related facilities.

18 (2) The specific number of permanent residential units, rental units and lodging units
 19 allowed within the Skyline Forest Sustainable Development Area under subsection (1)(a)(A)
 20 of this section is dependent upon the number of acres of the Skyline Conservation Tract and
 21 the Southern Conservation Tract conveyed to a land trust or a federal or state agency pur-
 22 suant to this section. Up to:

23 (a) 137 residential units shall be allowed within the Skyline Forest Sustainable Develop-
 24 ment Area in exchange for the conveyance of the Skyline Conservation Tract to a land trust;

25 (b) 183 residential units shall be allowed within the Skyline Forest Sustainable Develop-
 26 ment Area in exchange for the conveyance of the Skyline Conservation Tract and area one
 27 of the Southern Conservation Tract to a land trust or to a federal or state agency;

28 (c) 224 residential units shall be allowed within the Skyline Forest Sustainable Develop-
 29 ment Area in exchange for the conveyance of the Skyline Conservation Tract, area one and
 30 area two of the Southern Conservation Tract to a land trust or to a federal or state agency;
 31 or

32 (d) 282 residential units shall be allowed within the Skyline Forest Sustainable Develop-
 33 ment Area in exchange for the conveyance of the Skyline Conservation Tract, area one, area
 34 two and area three of the Southern Conservation Tract to a land trust or to a federal or
 35 state agency.

36 (3) All development, not including access roads and utility lines to the Skyline Forest
 37 Sustainable Development Area and up to five acres for maintenance and security facilities,
 38 shall be located on 1,200 contiguous acres within the Skyline Forest Sustainable Development
 39 Area. The owner shall use the remaining undeveloped 1,800 acres of the Skyline Forest
 40 Sustainable Development Area for the primary purposes of minimizing the risk of wildfire
 41 and maintaining wildlife habitat value. However, an equestrian facility may be located within
 42 the otherwise undeveloped 1,800 acres if the facility is located on no more than 40 acres
 43 contiguous to the developed portion of the Skyline Forest Sustainable Development Area. The
 44 owner shall cause a conservation easement pursuant to ORS 271.715 to 271.795 to be recorded
 45 on the entirety of the undeveloped 1,800 acres prohibiting partitions and development, but

1 allowing access roads, utility lines, maintenance and security facilities, and recreational uses
2 such as picnic grounds, trails, restrooms and the equestrian facility. The conservation ease-
3 ment shall be held by a land trust and shall contain terms agreed to by the State Department
4 of Fish and Wildlife and the State Forestry Department.

5 (4) Roads, utility corridors and all utility facilities necessary to serve the Skyline Forest
6 Sustainable Development Area shall be allowed as outright permitted uses within the Skyline
7 Forest Sustainable Development Area, the Skyline Forest and on nearby lands regardless of
8 the comprehensive plan or zoning designation of the lands.

9 (5) The uses allowed by this section shall be allowed only upon approval of a master plan
10 as provided by section 5 (3) of this 2009 Act. The master plan shall contain design criteria
11 and standards that:

12 (a) Ensure that sustainability principles will be incorporated into the development and
13 operation of uses within the Skyline Forest Sustainable Development Area;

14 (b) Promote sustainable building design, water conservation and energy conservation;

15 (c) Ensure that there will be negligible visual impacts under normal daylight viewing
16 conditions from Awbrey Butte and the Plainview scenic turnout located on the
17 McKenzie-Bend Highway No. 17, also known as U.S. Route 20, near milepost 9; and

18 (d) Require all outdoor lighting to be downward facing, to the extent practicable.

19 (6) The Skyline Forest Sustainable Development Area shall be served by one primary
20 access route and by one or more emergency and secondary access routes that use existing
21 roads as much as practicable. The access routes may be private or public roads, including
22 roads managed by the United States Forest Service. The primary access route shall intersect
23 the McKenzie-Bend Highway No. 17, also known as U.S. Route 20, between mileposts 3 and
24 6 to provide access from the eastern boundary of the Skyline Forest Sustainable Develop-
25 ment Area to the referenced highway.

26 (7) The Skyline Forest Sustainable Development Area, including all access roads, must
27 be developed in consultation with:

28 (a) The State Department of Fish and Wildlife to minimize impacts on wildlife, partic-
29 ularly deer and elk populations.

30 (b) The State Forestry Department and the United States Forest Service to minimize
31 wildfire risks.

32 (8) The owner of the Skyline Forest Sustainable Development Area shall:

33 (a) Provide adequate firefighting facilities and services to address the needs of the de-
34 velopment.

35 (b) Design, develop and maintain all structures consistent with the default wildfire safety
36 standards of the Oregon Forestland-Urban Interface Fire Protection Act of 1997, as set forth
37 in administrative rules of the State Forestry Department.

38 (9) Any wells used to provide water for uses within the Skyline Forest Sustainable De-
39 velopment Area shall be sited to minimize impacts of groundwater use on Whychus Creek
40 and Melvin Springs.

41 **SECTION 4.** The land uses described in section 3 of this 2009 Act shall be allowed within
42 the Skyline Forest Sustainable Development Area if:

43 (1) The owner of the Skyline Forest Sustainable Development Area obtains the land use
44 approvals described in section 5 of this 2009 Act; and

45 (2) The following conditions are satisfied:

1 (a) The owner of the Skyline Forest and the Southern Conservation Tract transfers:

2 (A) The Skyline Conservation Tract to a land trust for the purpose of creating commu-
 3 nity forestlands; and

4 (B) The Southern Conservation Tract, whether to a single buyer or multiple buyers, to
 5 a land trust for the purpose of creating community forestlands or to a federal or state
 6 agency. However, the owner may choose to retain all or a portion of the Southern Conser-
 7 vation Tract, in which case the number of residential units allowed within the Skyline Forest
 8 Sustainable Development Area shall be limited as set forth section 3 (2) of this 2009 Act.

9 (b) The consideration for any transfer does not exceed the fair market value of the
 10 property as established by an appraisal based on the hypothetical condition or assumption
 11 that all development rights on the properties, whether actual or potential, have been extin-
 12 guished as contemplated by section 6 of this 2009 Act. The appraisal must comply with the
 13 Uniform Standards of Professional Appraisal Practice. The appraisal shall comply with the
 14 Uniform Appraisal Standards for Federal Land Acquisitions if:

15 (A) The land trust or state agency proposes to use federal funds, in whole or in part, to
 16 purchase the property and has demonstrated a reasonable likelihood that federal funds will
 17 be secured for the purchase; or

18 (B) The property is being conveyed to a federal agency.

19 (c) The Skyline Conservation Tract and the Southern Conservation Tract will be managed
 20 so that wildlife and recreational values are safeguarded and the overall forest health, in-
 21 cluding sustainable timber production and wildfire prevention, is maintained over the long
 22 term.

23 **SECTION 5.** (1) The land uses described in section 3 of this 2009 Act shall be allowed:

24 (a) As outright permitted uses by Deschutes County, following approval of the master
 25 plan required by subsection (3) of this section by Deschutes County.

26 (b) Notwithstanding provisions of ORS 215.700 to 215.780 relating to lot size and dwelling
 27 standards on forestlands, statewide land use planning goals relating to agricultural lands,
 28 forestlands, public facilities and services, transportation and urbanization and provisions of
 29 Deschutes County's comprehensive plan and land use regulations limiting uses of forestlands.

30 (2) Approval of the master plan and land division applications required by subsection (3)
 31 of this section for the development and use of the Skyline Forest Sustainable Development
 32 Area and all associated road and utility corridors may not require exceptions to any state-
 33 wide planning goal or amendment of any local comprehensive plan or land use regulation.
 34 Deschutes County shall apply only the provisions of sections 1 to 9 of this 2009 Act as stan-
 35 dards and criteria for an application for, or amendment to, a master plan or land division
 36 application or other development permit applications submitted pursuant to sections 1 to 9
 37 of this 2009 Act.

38 (3) The owner of the Skyline Forest Sustainable Development Area may submit an ap-
 39 plication to Deschutes County for approval of a master plan for the development and use of
 40 the area. The application must be submitted within five years after the effective date of this
 41 2009 Act, subject to the following:

42 (a) The master plan shall demonstrate compliance with sections 1 to 9 of this 2009 Act
 43 and include a tentative land division application to create the lots within the Skyline Forest
 44 Sustainable Development Area.

45 (b) Deschutes County shall process the master plan and all land division applications

1 pursuant to the procedural review provisions of the local land use regulations. However,
2 Deschutes County shall approve the master plan and any tentative or final land division ap-
3 plications if the applications are consistent with sections 3 and 4 of this 2009 Act. No addi-
4 tional land use or land division standards shall apply to the approval and development of the
5 Skyline Forest Sustainable Development Area.

6 (c) Deschutes County shall condition final approval of the master plan and land division
7 applications on the execution of an agreement to record a conservation easement in accord-
8 ance with section 3 (3) of this 2009 Act, an agreement to transfer the Skyline Conservation
9 Tract to a land trust for the purpose of creating community forestlands and, if applicable,
10 an agreement to transfer all or a portion of the Southern Conservation Tract either to a land
11 trust for the purpose of creating community forestland or to a federal or state agency. The
12 agreements shall specify that recordation of the conservation easement, transfer of the
13 Skyline Conservation Tract and transfer of all or a portion of the Southern Conservation
14 Tract shall be contingent upon the following terms:

15 (A) The owner of the Skyline Forest Sustainable Development Area shall obtain all fed-
16 eral, state and local licenses, permits, rights and other entitlements necessary for develop-
17 ment of the Skyline Forest Sustainable Development Area, each of which shall be final and
18 no longer subject to appeal;

19 (B) The land trust or the federal or state agencies, as applicable, shall obtain adequate
20 funding to purchase the Skyline Conservation Tract or the Southern Conservation Tract, as
21 applicable, in accordance with section 4 (2)(b) of this 2009 Act; and

22 (C) The land trust or the federal or state agencies shall develop and implement manage-
23 ment standards that provide reasonable assurance to the owner of the Skyline Forest
24 Sustainable Development Area that the Skyline Conservation Tract and the Southern Con-
25 servation Tract will be managed to establish forest health, manage wildfire risk and maintain
26 compatibility with the Skyline Forest Sustainable Development Area.

27 (d) The master plan and all associated land division plans shall govern development of the
28 Skyline Forest Sustainable Development Area in perpetuity and shall not expire. Regulations
29 requiring the submittal of final plats within a specified time period following tentative plan
30 approval shall not apply to the Skyline Forest Sustainable Development Area. The master
31 plan may be amended at any time following an administrative review by Deschutes County.
32 Deschutes County shall approve the amendments if the amended master plan remains con-
33 sistent with sections 3 and 4 of this 2009 Act.

34 **SECTION 6.** The Deschutes Land Trust, an Oregon nonprofit corporation, shall have a
35 right of last opportunity to purchase the Skyline Conservation Tract and the Southern Con-
36 servation Tract, and any purchase agreement shall provide a minimum of three years for the
37 Deschutes Land Trust to obtain funding for any purchase. If at any time after two years
38 from the date of any purchase agreement or the date of filing of a master plan under section
39 5 (3) of this 2009 Act, whichever is later, the Deschutes Land Trust has failed to demonstrate
40 a reasonable likelihood that the land trust will be able to obtain the funds necessary to
41 complete the purchase, the owner of the Skyline Conservation Tract and the Southern Con-
42 servation Tract may seek alternative buyers for any property that is the subject of a pur-
43 chase agreement under this section. The Deschutes Land Trust will in good faith notify the
44 owner of the Skyline Conservation Tract and the Southern Conservation Tract if at any time
45 during the period of any purchase agreement the Deschutes Land Trust concludes it does

1 not wish to complete the purchase or will be unable to obtain the necessary funding to
2 complete the purchase.

3 **SECTION 7.** Development and construction uses within the Skyline Forest Sustainable
4 Development Area may proceed according to the approved master plan once the transfer of
5 fee title of the Skyline Conservation Tract and, as applicable, all or a portion of the Southern
6 Conservation Tract, is complete. Following transfer of fee title of the Skyline Conservation
7 Tract and, as applicable, all or a portion of the Southern Conservation Tract, all development
8 rights on the conveyed lands are extinguished and the conveyed lands shall be thereafter
9 managed as community forestlands or as federal or state forestlands.

10 **SECTION 8.** (1) At any time within five years after the effective date of this 2009 Act,
11 the owner of the Skyline Forest Sustainable Development Area may either file an application
12 for a master plan pursuant to section 5 (3) of this 2009 Act, or submit written notice to
13 Deschutes County and the Deschutes Land Trust stating the owner's intent to relinquish the
14 development opportunities authorized by sections 1 to 9 of this 2009 Act. Until the owner
15 of the Skyline Forest Sustainable Development Area files a master plan application or sub-
16 mits a notice of relinquishment under this subsection, the owner may not divide, develop,
17 obtain a lot of record determination for or prohibit public access to any portion of the Sky-
18 line Forest. If the owner of the Skyline Forest Sustainable Development Area submits a no-
19 tice of relinquishment under this subsection, or the owner allows the five-year time period
20 to elapse without taking any action under this subsection, the development opportunities
21 authorized by this section shall expire and the owner may divide, develop and prohibit public
22 access to any portion of Skyline Forest pursuant to the laws in effect at that time.

23 (2) If the owner of the Skyline Forest Sustainable Development Area does not file a
24 master plan within five years of the effective date of this 2009 Act or if Deschutes County
25 does not approve a master plan as provided in section 5 (3) of this 2009 Act within 10 years
26 of the effective date of this 2009 Act, then the provisions of sections 1 to 9 of this 2009 Act
27 shall cease to have any force or effect.

28 **SECTION 9.** The development opportunities provided by sections 1 to 9 of this 2009 Act
29 are fully transferable and will run with the land in the event of a change of ownership of the
30 Skyline Forest or all or a portion of the Southern Conservation Tract.

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