

Enrolled Senate Bill 1555

Sponsored by Senators GIROD, BAERTSCHIGER JR; Senators BEYER, BOQUIST, CLOSE, EDWARDS, FERRIOLI, HANSELL, JOHNSON, KNOPP, KRUSE, OLSEN, ROBLAN, THOMSEN, WHITSETT, WINTERS, Representatives FREEMAN, GILLIAM, JOHNSON, KRIEGER, RICHARDSON, WEIDNER, WHISNANT (Pre-session filed.)

CHAPTER

AN ACT

Relating to forest products; creating new provisions; amending ORS 273.535 and 530.059; and declaring an emergency.

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

SECTION 1. Section 2 of this 2014 Act is added to and made a part of ORS 530.010 to 530.110.

SECTION 2. The State Forester may require the successful purchaser at a forest products sale to provide a surety bond, cash deposit, assignment of surety, irrevocable letters of credit or other securities as determined acceptable by the State Forester for the purpose of securing performance by the purchaser. The required amount of a bond, deposit, assignment, letter of credit or other security may not be more than \$500,000. Claims by any person against the bond, deposit, assignment, letter of credit or other security shall be made to the State Forester for determination. If the claim is disputed, the State Forester may request settlement of the claim through compromise or mediation or require that the claim be litigated. Unless there is a claim awaiting determination, the State Forester shall return any unexpended amount from the bond, deposit, assignment, letter of credit or other security no later than 180 days after the earlier of the completion of operations under the sales contract or the termination date in the sales contract.

SECTION 3. ORS 530.059 is amended to read:

530.059. (1) Before offering any forest products for sale under authority of ORS 530.050 or 530.500, the State Forester shall cause the forest products to be appraised. Should the appraised value of the forest products be in excess of \$25,000, the State Forester shall not sell the same to a private person, firm or corporation, except after giving notice of the sale as required by this section, and affording an opportunity for competitive bidding either by public auction or through sealed bids, or a combination of both; provided, however, that such notice and opportunity for competitive bidding will not be required for sales in connection with:

- (a) Experimental or research projects in the field of forestland management or forest product utilization.
- (b) The removal, injury or destruction of forest products necessitated by any grant of easement or right of way, or necessitated by a permit or license to use a right of way, including trees which may endanger the use of such easement or way.

(c) The removal of forest products with an appraised value of less than \$100,000 that, as a result of an act of nature or other unforeseen circumstance:

- (A) Pose a threat to the health of the forests, waterways or forest road infrastructures; or
- (B) Will lose value as a result of potential theft.

(d) The removal of forest products with an appraised value of less than \$100,000 to facilitate the development, placement or maintenance of forest road infrastructures.

(2) The State Forester shall give the notice required by subsection (1) of this section by mail to all persons requesting such notice and in such other media of communication as the State Forester may deem advisable. The State Forester shall maintain a mailing list with the names and addresses of persons who have requested to receive State Forestry Department notices of timber sales. The notice shall describe the forest products to be sold and the land on which such products are situated, state the minimum price at which the same may be sold, and contain a brief statement of the terms of the sale. As a provision of each sale, the State Forester shall reserve the right to accept or reject any or all bids.

(3) Prior to or at the time the State Forester receives bids, each bidder shall furnish the State Forester with a certified check, cashier's check, money order, surety bond, cash deposit, assignment of surety, irrevocable letters of credit or other securities as determined acceptable by the State Forester in an amount designated by the State Forester. *[but said amount shall]* **The amount designated by the State Forester may not exceed 10 percent of the minimum price of the forest products to be sold**, *[which check, order or deposit, in the case of the successful bidder, shall be retained by the State Forester as a credit toward payment of the purchase price of the forest products sold, and which, in the case of the unsuccessful bidders, shall be returned to them]* **or \$500,000, whichever is less. The State Forester shall retain the amounts furnished by the successful bidder as a credit toward payment of the purchase price of the forest products sold. The State Forester shall return the amounts furnished by an unsuccessful bidder after determination of the successful bid.** Any checks, bonds or orders furnished under this subsection shall be made payable to the State of Oregon.

[(4) The State Forester is authorized to require and accept a surety bond, cash deposit, assignment of surety, irrevocable letters of credit or other securities as determined acceptable by the State Forester. Claims against such bond shall be made to the State Forester for determination. If the claim is disputed, the forester may request settlement of the claim through compromise or mediation or require the claim to be litigated.]

[(5)] (4) If the provisions of this section have been complied with, and no satisfactory bid has been received, or the bidder fails to complete the purchase, the State Forester may, at any time, during a period of six months after the advertised date of sale, sell the forest products in such manner as the forester deems appropriate, but the sale price shall not be less than the minimum terms offered in the notice of sale or the highest bid received, whichever is the larger amount.

SECTION 4. ORS 273.535 is amended to read:

273.535. Bond **or other security** requirements for the sale of forest products **by the Department of State Lands and provisions for the return of those bonds or securities to a purchaser** shall correspond to the *[requirements for bonds]* **bond or other security requirements and provisions for the return of bonds or securities to a purchaser that are established for a forest product sale by the State Forester in ORS 530.059 and section 2 of this 2014 Act.**

SECTION 5. Section 2 of this 2014 Act and the amendments to ORS 273.535 and 530.059 by sections 3 and 4 of this 2014 Act apply to bonds, deposits, assignments, letters of credit or other securities provided for forest product sales occurring on or after July 1, 2014.

SECTION 6. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Passed by Senate February 18, 2014

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House February 26, 2014

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

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Kate Brown, Secretary of State