

Senate Bill 204

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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**.

Establishes Working Forests and Farms Advisory Committee to provide advice regarding three new programs for maintaining or restoring conservation benefits of working forests and farms.

Requires Oregon Business Development Department to establish program to provide lenders with loan guarantees, insurance or coinsurance on loans to eligible borrowers for qualifying working forests or farms. Requires department to establish program for issuing fixed-rate loans to eligible borrowers for acquisition of qualifying working forests or farms.

Requires Oregon Watershed Enhancement Board to establish program for issuing grants to acquire or conserve working forests and farms dedicated, in part, for achievement of conservation benefits.

Creates funds for new programs and continuously appropriates fund moneys for use by administering entities to carry out programs.

A BILL FOR AN ACT

1
2 Relating to the conservation of working land.

3 Whereas Oregon residents are seeking voluntary, nonregulatory means to organize economic,
4 social and environmental attributes of private land while maintaining private property rights and
5 conservation opportunities associated with land management; now, therefore,

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

7 **SECTION 1. As used in sections 1 to 13 of this 2015 Act:**

8 (1) **"Conservation benefits" means:**

9 (a) **Reducing the risk of a fragmentation of forest, farm or ranch land, or of a loss of use**
10 **of land as forest, farm or ranch land, that is likely to cause adverse conservation effects;**
11 **or**

12 (b) **Maintaining, restoring, protecting or enhancing:**

13 (A) **Water quality or quantity;**

14 (B) **Native fish and wildlife habitat;**

15 (C) **Biological diversity; or**

16 (D) **Other specific attributes that contribute to ecological health.**

17 (2) **"Working forest or farm" means land used for an operation in which the owner, the**
18 **owner's designee or an operator actively engages in timber production, farming or ranching**
19 **while simultaneously conferring conservation benefits.**

20 **SECTION 2. (1) There is established within the office of the Governor the Working For-**
21 **ests and Farms Advisory Committee, consisting of 11 members appointed as follows:**

22 (a) **The Director of the Oregon Business Development Department shall appoint one**
23 **member from among the members of the Oregon Business Development Commission or the**
24 **employees of the Oregon Business Development Department;**

25 (b) **The executive director of the Oregon Watershed Enhancement Board shall appoint**

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 one member from among the voting members or employees of the board;

2 (c) The State Forester shall appoint one member from among the members of the State
3 Board of Forestry or the employees of the State Forestry Department;

4 (d) The Director of Agriculture shall appoint one member from among the voting mem-
5 bers of the State Board of Agriculture or the employees of the State Department of Agri-
6 culture;

7 (e) The Director of the Department of Land Conservation and Development shall appoint
8 one member from among the members of the Land Conservation and Development Commis-
9 sion or the employees of the Department of Land Conservation and Development;

10 (f) The State Fish and Wildlife Director shall appoint one member from among the
11 members of the State Fish and Wildlife Commission or the employees of the State Depart-
12 ment of Fish and Wildlife; and

13 (g) The Governor shall appoint five members, consisting of representatives for each of
14 the following interests:

15 (A) Tribal government.

16 (B) County government.

17 (C) Agriculture.

18 (D) Forestry and timber.

19 (E) Conservation.

20 (2) The term of office of each member is four years, but a member serves at the pleasure
21 of the appointing authority. Before the expiration of the term of a member, the appointing
22 authority shall appoint a successor whose term begins on January 1 next following. A mem-
23 ber appointed by the Governor may not serve more than two consecutive terms. If there is
24 a vacancy for any cause, the appointing authority shall make an appointment to become
25 immediately effective for the unexpired term.

26 (3) The appointment of a member by the Governor is subject to confirmation by the
27 Senate in the manner prescribed in ORS 171.562 and 171.565.

28 (4) A commission or board member appointed under subsection (1)(a) to (f) of this section
29 to the committee is entitled to compensation and expenses to the same extent as provided
30 for service as a member of the commission or board. A member appointed by the Governor
31 is entitled to compensation and expenses as provided in ORS 292.495. All committee member
32 compensation and expenses authorized under this subsection shall be paid from any moneys
33 made available to the office of the Governor for that purpose.

34 (5) The Oregon Department of Administrative Services shall provide staff support for the
35 committee as necessary.

36 **SECTION 3.** (1) The member of the Working Forests and Farms Advisory Committee
37 appointed by the Director of the Oregon Business Development Department and the member
38 appointed by the executive director of the Oregon Watershed Enhancement Board shall serve
39 alternating four-year periods as chairperson of the committee. The member who is not
40 serving as chairperson during a four-year period shall serve as vice chairperson. The chair-
41 person and vice chairperson shall have such duties and powers necessary for the perform-
42 ance of the functions of those offices as the committee determines.

43 (2) A majority of the members of the committee constitutes a quorum for the transaction
44 of business.

45 (3) The committee shall meet at least three times per year at a place, day and hour de-

1 terminated by the chairperson. The committee may also meet at other times and places spec-
2 ified by a majority of the members of the committee.

3 (4) The committee shall:

4 (a) Provide advice to the Oregon Business Development Department and the Oregon
5 Watershed Enhancement Board to assist the development of rules adopted by the depart-
6 ment under section 9 of this 2015 Act or by the board under section 12 of this 2015 Act;

7 (b) Adopt policy and priority recommendations for use by the department and the board
8 in evaluating the conservation benefits of working forests and farms described in applications
9 under sections 5, 7 and 10 of this 2015 Act; and

10 (c) Consult with the department and the board regarding the merits of specific applica-
11 tions made under sections 5, 7 and 10 of this 2015 Act.

12 **SECTION 4.** The purposes of the Legislative Assembly in enacting sections 5, 7 and 10
13 of this 2015 Act are to:

14 (1) Provide voluntary, nonregulatory financial incentives to maintain working forests and
15 farms in Oregon;

16 (2) Encourage the retention and creation of jobs in Oregon; and

17 (3) Provide other financial incentives that afford conservation benefits on working forests
18 and farms.

19 **SECTION 5.** (1) In addition to the purposes described in section 4 of this 2015 Act, the
20 purpose of this section is to help maintain working forests and farms and associated jobs by
21 providing eligible borrowers access to private capital that otherwise may not be available.

22 (2) The Oregon Business Development Department, after consultation with the State
23 Forestry Department and the State Department of Agriculture, shall establish a program for
24 the Oregon Business Development Department to act in conjunction with other loan and
25 credit guarantors to provide financial institutions or other lenders with loan guarantees, in-
26 surance and coinsurance for loans described in this section.

27 (3) The Oregon Business Development Department may provide loan guarantees, insur-
28 ance and coinsurance for a loan made to an eligible borrower for an existing or new working
29 forest or farm if:

30 (a) The landowner, or a designee, will manage the forest, farm or ranch land being fi-
31 nanced by a loan as a working forest or farm to achieve an economic return through the
32 production of forest, farm or ranch products that provide conversion facility supply, jobs or
33 other community benefits; and

34 (b) The landowner contracts that the landowner and any successor in interest will retain
35 the land in use as forest, farm or ranch land for not less than 15 years after the loan is paid
36 in full.

37 (4) The department shall adopt rules as provided under section 9 of this 2015 Act for loan
38 guarantees, insurance or coinsurance by the department, including but not limited to rules
39 requiring that the application demonstrate that the conditions described in subsection (3) of
40 this section will be met and that the applicant will give reasonable security for the loan. To
41 the extent practicable, the department shall design the requirements to allow flexibility and
42 responsiveness to program participant needs.

43 (5) Prior to entering into a loan guarantee exceeding \$5 million or into an insurance or
44 coinsurance obligation for a loan under this section, the department shall consult with the
45 Working Forests and Farms Advisory Committee regarding the merits of the loan as de-

1 scribed in the loan application. However, the department has sole authority to make deci-
2 sions for carrying out the program established under this section.

3 (6) In addition to any content required by law or required by the department by rule, the
4 lending documents for a loan described in this section must disclose in a clear and conspic-
5 uous manner that:

6 (a) The total payment by the state for all loan guarantee, insurance and coinsurance
7 obligations entered into by the department under this section may not exceed the balance in
8 the Working Forest and Farm Credit Enhancement Fund created under section 6 of this 2015
9 Act;

10 (b) If claims for the payment of loan guarantee, insurance or coinsurance obligations
11 entered into under this section exceed the available balance of the fund, the claims are sub-
12 ject to proration or nonpayment; and

13 (c) A loan guarantee, insurance or coinsurance obligation entered into by the department
14 under this section is not a general obligation of the state.

15 (7) Subsection (6) of this section does not limit the amount of loan guarantee, insurance
16 and coinsurance obligations that may be entered into by the department. However, the total
17 amount of payment on all claims for the payment of loan guarantee, insurance and
18 coinsurance obligations entered into by the department under this section may not exceed
19 the available balance of the Working Forest and Farm Credit Enhancement Fund at the time
20 of the claim.

21 (8) Subject to subsection (7) of this section, the maximum amount for a loan guarantee
22 obligation that the department may enter into under this section is the greater of \$15 million
23 or 95 percent of the loan amount. No more than 10 percent of a loan guaranteed by the de-
24 partment under this section may be for use as operating capital.

25 (9) The maximum term of a loan for which the department enters into a loan guarantee,
26 insurance or coinsurance obligation under this section is:

27 (a) Fifteen years for farmland.

28 (b) Thirty years for forestland.

29 (10)(a) The department may charge a fee to borrowers receiving a loan guarantee, in-
30 surance or coinsurance under this section. The department shall establish the fee in an
31 amount reasonably calculated to cover the costs to the department of carrying out the pro-
32 gram described in this section, including but not limited to issuance costs, loss from obli-
33 gation payments and administrative costs.

34 (b) If a failure to comply with the condition described in subsection (3)(b) of this section
35 occurs during the term of a loan guaranteed by the department under this section, in addi-
36 tion to any available penalty, remedy or other charge, the department may charge the bor-
37 rower an asset protection fee, determined as provided by department rule, not to exceed 15
38 percent of the initial loan balance.

39 (c) Moneys collected by the department under this section shall be deposited in the State
40 Treasury for crediting to the Working Forest and Farm Credit Enhancement Fund.

41 **SECTION 6.** The Working Forest and Farm Credit Enhancement Fund is established in
42 the State Treasury, separate and distinct from the General Fund. Interest earned by the
43 Working Forest and Farm Credit Enhancement Fund shall be credited to the fund. Moneys
44 in the fund are continuously appropriated to the Oregon Business Development Department
45 for the purpose of carrying out the program described in section 5 of this 2015 Act.

1 **SECTION 7.** (1) In addition to the purposes described in section 4 of this 2015 Act, the
2 purpose of this section is to help maintain working forests and farms that provide identifi-
3 able conservation benefits, by providing access to capital through an Oregon Business De-
4 velopment Department loan structure that is tied to the biological and economic capacities
5 of the land as determined by the State Forestry Department or the State Department of
6 Agriculture.

7 (2) The Oregon Business Development Department shall establish a program to provide
8 fixed-rate financing for the acquisition of working forests and farms.

9 (3) The department may provide fixed-rate financing for the acquisition of a working
10 forest or farm if:

11 (a) The borrower will use the acquired working forest or farm to produce forest, farm
12 or ranch products that provide conversion facility supply, jobs or other community benefits;

13 (b) The borrower contracts that the borrower, and any successor in interest in the
14 property, will retain the land in forest, farm or ranch use for not less than 15 years after
15 the loan is paid in full; and

16 (c) The working forest or farm will protect identifiable conservation benefits.

17 (4) The rules that the department adopts under section 9 of this 2015 Act for fixed-rate
18 financing by the department shall include but need not be limited to rules requiring that the
19 application demonstrate the conditions described in subsection (3) of this section will be met
20 and that the applicant will give reasonable security for the loan. The department may es-
21 tablish borrower, land and loan criteria that are in addition to any criteria described in
22 subsection (3) of this section. In developing the requirements and criteria, the department
23 shall give consideration to the policy and priority recommendations of the Working Forests
24 and Farms Advisory Committee.

25 (5) Prior to making a loan under this section, the department shall consult with the ad-
26 visory committee regarding the merits of the loan as described in the loan application.
27 However, the department has sole authority to make decisions for carrying out the program
28 established under this section.

29 (6) The total amount of all financing obligations entered into by the department under
30 this section may not exceed the available balance of the Working Forest and Farm Revolving
31 Loan Fund established under section 8 of this 2015 Act.

32 (7) Subject to subsection (6) of this section, the maximum amount for a loan that the
33 department may enter into under this section is:

34 (a) Except as provided in paragraph (b) of this subsection, \$7.5 million.

35 (b) With the express approval of the Director of the Oregon Business Development De-
36 partment, \$25 million.

37 (8) Subject to subsection (6) of this section, the maximum amount of exposure of the
38 department for operating lines of credit is the lesser of \$1 million or 75 percent of the loan
39 amount.

40 (9) The department shall establish the maximum term of each loan under this section,
41 not to exceed the maximum useful life of the assets securing the loan. However, if a loan is
42 for the acquisition of a working forest, the department shall adopt a schedule to ensure that
43 the maximum term of a loan does not exceed the lesser of:

44 (a) The maximum useful life of the assets securing the loan; or

45 (b) A term determined as provided in department rules that:

1 (A) Is based upon the biological capacities of the land class as defined in ORS 321.257; and

2 (B) Does not exceed 30 years.

3 (10)(a) The department may charge a reasonable loan origination fee, not to exceed 1.5
4 percent of the amount loaned.

5 (b) If a failure to comply with the condition described in subsection (3)(b) of this section
6 occurs during the term of a loan issued under this section, in addition to any available pen-
7 alty, remedy or other charge, the department may charge the borrower an asset protection
8 fee determined as provided by department rule, not to exceed 15 percent of the initial loan
9 balance.

10 (11) Moneys from a loan made under this section may be combined with loan moneys
11 described in section 5 of this 2015 Act, grant moneys under section 10 of this 2015 Act or
12 other public or private moneys to enable the purchase of a working forest or farm, provided
13 that no more than 75 percent of the acquisition cost is financed from loan moneys described
14 in section 5 of this 2015 Act and this section.

15 (12) All moneys collected from fees charged by the department under this section or from
16 borrower payments to the department for loan principal and interest shall be deposited in
17 the State Treasury for crediting as a reimbursement to or increase in the Working Forest
18 and Farm Revolving Loan Fund.

19 **SECTION 8.** The Working Forest and Farm Revolving Loan Fund is established in the
20 State Treasury, separate and distinct from the General Fund. Interest earned by the Work-
21 ing Forest and Farm Revolving Loan Fund shall be credited to the fund. Moneys in the fund
22 are continuously appropriated to the Oregon Business Development Department for use in
23 carrying out the loan program described in section 7 of this 2015 Act.

24 **SECTION 9.** In accordance with applicable provisions of ORS chapter 183, the Oregon
25 Business Development Department shall adopt rules for carrying out sections 5 and 7 of this
26 2015 Act. The rules must include, but need not be limited to, rules governing applications,
27 underwriting approval, appeals and collections.

28 **SECTION 10.** (1) In addition to the purposes described in section 4 of this 2015 Act, the
29 purpose of this section is to provide existing or new working forest or farm landowners, or
30 the conservation partners of those landowners, with moneys for maintaining or acquiring
31 working forests or farms on which a portion of the land is dedicated to providing conserva-
32 tion benefits.

33 (2) The Oregon Watershed Enhancement Board shall establish a program to provide
34 grants from the Working Forest and Farm Conservation Fund established under section 11
35 of this 2015 Act for maintaining or acquiring working forests or farms on which a portion
36 of the property is dedicated to providing conservation benefits. A conservation benefit ac-
37 tivity conducted on a working forest or farm that receives a grant under this section must
38 achieve the maintenance or restoration of the conservation benefit through:

39 (a) The acquisition of one or more conservation easements by a state agency;

40 (b) The acquisition of one or more conservation easements by a nonprofit organization
41 having qualifications established in board rules;

42 (c) The acquisition of a fee interest in the land by a state agency;

43 (d) The acquisition of a fee interest in the land by a nonprofit organization having quali-
44 fications established in board rules;

45 (e) Long-term contracts; or

1 (f) Capital improvements to support the working forest or farm.

2 (3) The board may adopt rules requiring that the applicant, and any nonprofit organiza-
3 tion assuming responsibility for achieving the maintenance or restoration of a conservation
4 benefit as described in subsection (2) of this section, provide adequate assurance that the
5 property or portion of the property will remain dedicated to providing conservation benefits.

6 (4) The board may provide grants for the maintenance or acquisition of a working forest
7 or farm if:

8 (a) A portion of the working forest or farm, whether or not the portion benefited by the
9 grant, will be dedicated to use for the maintenance or restoration of a conservation benefit;

10 (b) A portion of the working forest or farm, whether or not the portion benefited by the
11 grant, will be used to produce forest, farm or ranch products that provide conversion facility
12 supply, jobs or other community benefits; and

13 (c) The working forest or farm, or any interest acquired through the use of the grant,
14 will be protected against fragmentation or conversion to other uses.

15 (5) The board shall specify the application and processing requirements to qualify for a
16 grant under this section, including but not limited to requirements that the application
17 demonstrate that the conditions described in subsection (4) of this section will be met. The
18 board may establish recipient, land and grant criteria that are in addition to any criteria
19 described in subsection (4) of this section. To the extent practicable, the board shall design
20 the requirements and criteria to allow flexibility and responsiveness to program participant
21 needs. In developing the requirements and criteria, the board shall give consideration to the
22 policy and priority recommendations of the Working Forests and Farms Advisory Commit-
23 tee. Prior to issuing a grant under this section, the board shall consult with the advisory
24 committee regarding the merits of the grant as described in the grant application. However,
25 the board has sole authority to make decisions for carrying out the program established
26 under this section.

27 (6) Moneys from grants issued under this section may be combined with loan moneys
28 described in sections 5 and 7 of this 2015 Act or other public or private moneys and in-kind
29 services to enable the purchase of a working forest or farm, provided that no more than 75
30 percent of the acquisition cost is financed from loan moneys described in sections 5 and 7
31 of this 2015 Act.

32 **SECTION 11.** The Working Forest and Farm Conservation Fund is established in the
33 State Treasury, separate and distinct from the General Fund. Interest earned by the Work-
34 ing Forest and Farm Conservation Fund shall be credited to the fund. Moneys in the fund
35 are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose
36 of carrying out the grant program described in section 10 of this 2015 Act. No more
37 than ____ percent of the amounts expended from the fund may be used for the administra-
38 tive costs of the program.

39 **SECTION 12.** In accordance with applicable provisions of ORS chapter 183, the Oregon
40 Watershed Enhancement Board may adopt rules necessary for the administration of section
41 10 of this 2015 Act.

42 **SECTION 13.** (1) The State Department of Agriculture and the State Forestry Depart-
43 ment shall use any landowner or community outreach programs of the departments to make
44 landowners and other potentially interested persons aware of the programs made available
45 under sections 5, 7 and 10 of this 2015 Act.

1 **(2) The departments may, at the request of the Oregon Business Development Depart-**
2 **ment and the Oregon Watershed Enhancement Board, provide assistance regarding the**
3 **evaluation of conservation benefits and forest, farm and ranch lands described in applications**
4 **under sections 5, 7 and 10 of this 2015 Act.**

5 **SECTION 14. Notwithstanding the term of office specified in section 2 of this 2015 Act,**
6 **of the first five members appointed by the Governor to the Working Forests and Farms**
7 **Advisory Committee:**

8 **(1) One shall serve for a term ending January 1, 2017.**

9 **(2) One shall serve for a term ending January 1, 2018.**

10 **(3) One shall serve for a term ending January 1, 2019.**

11 **(4) Two shall serve for terms ending January 1, 2020.**

12