

# Enrolled Senate Bill 206

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CHAPTER .....

AN ACT

Relating to alterations in determined water rights in the upper Klamath Basin; and declaring an emergency.

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

**SECTION 1. (1) As used in this section, “determined claim” means a water right in the Upper Klamath Basin determined and established in an order of determination certified by the Water Resources Director under ORS 539.130.**

**(2) Except as provided in subsections (3) and (4) of this section, during the period that judicial review of the order of determination is pending, a determined claim is:**

**(a) An existing water right that may be leased for a term as provided under ORS 537.348; and**

**(b) A primary water right that is subject to temporary transfer for purposes of ORS 540.523.**

**(3) Subsection (2) of this section:**

**(a) Does not apply to a water right determined and established in an order of determination that has been stayed by the filing of a bond or irrevocable letter of credit under ORS 539.180;**

**(b) Does not apply to a water right transfer that includes changing the point of diversion upstream; and**

**(c) Does not allow a person to purchase, lease or accept a gift of a determined claim for conversion to an in-stream water right as described in ORS 537.348 (1).**

**(4) For purposes of determining under ORS 537.348 (5) or 540.523 (2) whether the Water Resources Department may approve a lease or temporary transfer of a determined claim, an injury to another determined claim is an injury to an existing water right. Notwithstanding ORS 537.348 (6) or 540.523 (5), the department shall deny, modify or revoke the lease or temporary transfer of a determined claim if the department determines that the lease or temporary transfer has resulted in, or is likely to result in:**

**(a) Injury to another determined claim or other existing water right; or**

**(b) Enlargement of the determined claim.**

**(5) The department shall revoke the lease or temporary transfer of a determined claim if a court judgment stays the determined claim.**

(6) If a determined claim is removed from land by lease or temporary transfer, the land from which the determined claim is removed may not receive water during the term of the lease or temporary transfer.

**SECTION 2.** (1) Section 1 of this 2015 Act is repealed January 2, 2026.

(2) Notwithstanding the repeal of section 1 of this 2015 Act by subsection (1) of this section, subject to modification or revocation under section 1 of this 2015 Act, a lease or temporary transfer of a determined claim under section 1 of this 2015 Act for a term beginning prior to January 2, 2026, may continue in effect for the term of the lease or temporary transfer. If a court judgment results in a modification of the determined claim, the parties may continue the lease or temporary transfer of all or part of the water right as modified for all or part of the original term of the lease or temporary transfer.

**SECTION 3.** This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by Senate April 28, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 4, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State