

**PROPOSED AMENDMENTS TO
HOUSE BILL 2984**

1 On page 1 of the printed bill, delete lines 4 through 23 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. As used in sections 1 to 6 of this 2015 Act:**

4 **“(1) ‘Clackamas Forestry Product Cooperative Project’ means the**
5 **pilot program established by Clackamas County under section 3 of this**
6 **2015 Act for forestry products grown on nonforest land within the**
7 **county to be commercially produced and marketed through a forestry**
8 **products cooperative.**

9 **“(2) ‘Dealer’ means a person or agent of a person, other than a co-**
10 **operative, that purchases or contracts to purchase forestry products**
11 **through the Clackamas Forestry Product Cooperative Project.**

12 **“(3) ‘Forestland’ means land that has a highest and best use other**
13 **than the growing of forest products.**

14 **“(4) ‘Forestry products’:**

15 **“(a) Except as provided in paragraph (b) of this subsection means**
16 **products from harvested timber.**

17 **“(b) Does not mean products from short rotation fiber grown under**
18 **agricultural conditions as described in ORS 321.267 (3) or 321.824 (3),**
19 **western juniper or products from harvested western juniper.**

20 **“(5) ‘Nonforest lands’ means lands other than forestland.**

21 **“(6) ‘Party’ means Clackamas County or a Clackamas County em-**
22 **ployee or a producer or dealer that carries out activities or engages in**

1 transactions regarding the Clackamas Forestry Product Cooperative
2 Project.

3 “(7) ‘Producer’ means a possessor of land on which trees are grown
4 for harvesting as forestry products.

5 **“SECTION 2. (1) It is the intent of sections 1 to 6 of this 2015 Act**
6 **to displace competition through a regulatory system for the commer-**
7 **cial production and marketing of forestry products on nonforest land**
8 **under a Clackamas County program, referred to in sections 1 to 6 of**
9 **this 2015 Act as the Clackamas Forestry Product Cooperative Project,**
10 **to a limited degree. The regulatory system is intended to grant im-**
11 **munity from federal and state antitrust laws to the Clackamas**
12 **Forestry Product Cooperative Project parties for the limited purposes**
13 **of allowing the parties to bargain collectively and to arrive at a nego-**
14 **tiated price for forestry products produced on nonforest land within**
15 **Clackamas County.**

16 “(2) The activities of any party that comply with the regulatory
17 system described in sections 1 to 6 of this 2015 Act and State Forester
18 rules for carrying out the regulatory system and the Clackamas
19 Forestry Product Cooperative Project may not be considered to be in
20 restraint of trade, a conspiracy or combination or any other unlawful
21 activity in violation of any provision of ORS 646.705 to 646.826 or fed-
22 eral antitrust laws.

23 “(3) The State Forester shall actively supervise the conduct of a
24 party in establishing the price of forestry products bought and sold as
25 part of the Clackamas Forestry Product Cooperative Project. The State
26 Forester shall actively supervise, and establish procedures and guide-
27 lines for, the negotiations between the parties, review the prices es-
28 tablished by the negotiations and approve the prices proposed by the
29 parties before the prices take effect. Any adjustments to previously
30 approved prices must be approved by the State Forester before the

1 adjustments may be implemented.

2 “(4) The State Forester may compel the parties to take whatever
3 action the State Forester considers necessary to:

4 “(a) Ensure that the parties are engaging in conduct that is au-
5 thorized under sections 1 to 6 of this 2015 Act;

6 “(b) Ensure that the policies of this state are being fulfilled under
7 the Clackamas Forestry Product Cooperative Project; and

8 “(c) Prevent conduct by any of the parties that is not authorized
9 by the regulatory system administered by the State Forester or con-
10 duct that, in the opinion of the State Forester, does not advance the
11 interests of this state in carrying out the regulatory system for the
12 Clackamas Forestry Product Cooperative Project.

13 “(5) The State Forester may take any actions the State Forester
14 deems appropriate to resolve disputes between the parties that involve
15 or arise out of the Clackamas Forestry Product Cooperative Project,
16 including but not limited to referring the dispute for mediation, arbi-
17 tration or hearing.

18 “(6) The State Forester may designate employees of the State
19 Forestry Department to carry out the responsibility of actively super-
20 vising the conduct of the parties, including serving as intermediaries
21 between parties or prospective parties.

22 “(7) The State Forester may adopt rules to carry out the State
23 Forester’s authority under sections 1 to 6 of this 2015 Act. The de-
24 partment and the county shall enter into a memorandum of under-
25 standing for the county to reimburse the department for the actual
26 costs to the department of providing services for the benefit of the
27 Clackamas Forestry Product Cooperative Project. Moneys paid by the
28 county as reimbursement shall be deposited in the State Forestry De-
29 partment Account established under ORS 526.060.

30 **“SECTION 3.** (1) Clackamas County shall establish the Clackamas

1 **Forestry Product Cooperative Project as a pilot program. In addition**
2 **to promoting economic development within Clackamas County, the**
3 **purpose of the project shall be to develop a program model for use by**
4 **counties in this state that wish to promote economic development by**
5 **using cooperatives to provide for the commercial production and**
6 **marketing of forestry products from nonforest lands. Subject to sec-**
7 **tion 2 of this 2015 Act, Clackamas County may do the following to**
8 **carry out the pilot program:**

9 **“(a) Negotiate and enter into an agreement with any person or**
10 **governmental entity willing to commercially produce forestry products**
11 **as a member of the Clackamas Forestry Product Cooperative Project.**
12 **The agreement must specify the number, type and location of trees**
13 **covered by the agreement. The State Forester may impose additional**
14 **requirements for the contents of agreements described in this para-**
15 **graph.**

16 **“(b) Negotiate with one or more producers and dealers to establish**
17 **the price for the forestry products sold through the cooperative. The**
18 **dealers may negotiate the price for the forestry products through a**
19 **committee that sets forth the views of the dealers and votes on any**
20 **issues being negotiated as authorized by this section, including the**
21 **price for forestry products. However, a person that is both a producer**
22 **and a dealer may not participate in negotiations under this section.**

23 **“(2) A tree that is covered by an agreement under subsection (1)(a)**
24 **of this section must be marked for identification purposes as required**
25 **by the county.**

26 **“(3) An agreement under subsection (1)(a) of this section may not**
27 **be used to alter the supply of buildable land within an urban growth**
28 **boundary.**

29 **“(4) If the land on which a tree subject to the Clackamas Forestry**
30 **Product Cooperative Project is located is sold, the tree shall continue**

1 to be a tree subject to the Clackamas Forestry Product Cooperative
2 Project unless:

3 “(a) The new owner of the land removes the tree from the project;
4 or

5 “(b) The county project coordinator determines that the tree is not
6 being maintained as required by the project.

7 “(5) Except as provided in this section, a local government may not
8 enforce an ordinance to require or prohibit the removal of a tree that
9 is subject to the Clackamas Forestry Product Cooperative Project. This
10 subsection does not prohibit a local government from:

11 “(a) Enforcing a county ordinance approved by the State Forester
12 for regulating trees subject to the Clackamas Forestry Product Coop-
13 erative Project or regulating land on which a tree that is subject to
14 the project is located;

15 “(b) Enforcing a county ordinance adopted to implement compre-
16 hensive plan policies developed to address statewide land use goals;

17 “(c) Enforcing a local ordinance regulating a tree that is removed
18 from the Clackamas Forestry Product Cooperative Project;

19 “(d) Exercising the power of eminent domain to acquire fee title to
20 the land on which a tree subject to the Clackamas Forestry Product
21 Cooperative Project is planted; or

22 “(e) Acting or requiring action to remedy or mitigate a hazardous
23 condition in a tree that presents an imminent threat of serious harm
24 to persons or property.

25 “(6) Subsection (5) of this section does not prevent the application
26 of a local ordinance to require or prohibit the removal of a tree if the
27 tree becomes subject to the Clackamas Forestry Product Cooperative
28 Project more than five years after the tree is planted.

29 “(7) This section does not require a county project coordinator or
30 the State Forester to consent to the inclusion or continued inclusion

1 of a tree in the Clackamas Forestry Product Cooperative Project.

2 **“SECTION 4. The county program model that Clackamas County**
3 **develops through the Clackamas Forestry Product Cooperative Project**
4 **must include, but need not be limited to:**

5 **“(1) A training manual to guide counties in establishing and ad-**
6 **ministering cooperatives for the commercial production and marketing**
7 **of forestry products on nonforest lands;**

8 **“(2) Information identifying tree species best suited for use in**
9 **western Oregon for producing forestry products;**

10 **“(3) An Internet website for use by the county, producers and**
11 **dealers to establish agreements under the program;**

12 **“(4) Standardized memorandums of understanding setting forth the**
13 **services provided and the terms of program participation;**

14 **“(5) Care instructions and identification of best practices for the**
15 **production of forestry products;**

16 **“(6) Means for identifying and monitoring the status of trees in the**
17 **program; and**

18 **“(7) Materials for the marketing of, and promoting demand for,**
19 **forestry products.**

20 **“SECTION 5. (1) The governing body of Clackamas County shall**
21 **appoint an advisory committee to provide the county with recom-**
22 **mendations regarding the structure and operation of the Clackamas**
23 **Forestry Product Cooperative Project in a successful manner, includ-**
24 **ing but not limited to, recommendations for addressing the concerns**
25 **of the local governments and business interests within the county and**
26 **recommendations regarding the marketing of forestry products.**

27 **“(2) To the extent practicable, the advisory committee appointed**
28 **under subsection (1) of this section shall include, but need not be**
29 **limited to, representatives from:**

30 **“(a) The Association of Oregon Counties;**

1 **“(b) The League of Oregon Cities;**
2 **“(c) The Department of Transportation;**
3 **“(d) A conservation organization;**
4 **“(e) The forest products industry;**
5 **“(f) The nursery products industry; and**
6 **“(g) The Oregon Wood Innovation Center operated by Oregon State**
7 **University.**

8 **“SECTION 6. The State Forester may terminate the Clackamas**
9 **Forestry Product Cooperative Project if the State Forester determines**
10 **that the project is not being conducted in accordance with sections 1**
11 **to 6 of this 2015 Act or rules adopted under section 2 of this 2015 Act.**

12 **“SECTION 7. (1) Clackamas County shall report on progress in the**
13 **development of the Clackamas Forestry Product Cooperative Project**
14 **described in sections 1 to 6 of this 2015 Act:**

15 **“(a) To an interim committee of the Legislative Assembly dealing**
16 **with economic development during the month of September 2015;**

17 **“(b) To the 2016 regular session of the Legislative Assembly; and**

18 **“(c) To an interim committee of the Legislative Assembly dealing**
19 **with economic development during the month of September 2016.**

20 **“(2) The reports made under this section must be accompanied by**
21 **accountings sufficient to establish that expenditures of moneys de-**
22 **scribed in section 8 of this 2015 Act are used solely for the purpose of**
23 **developing, implementing and administering the Clackamas Forestry**
24 **Product Cooperative Project.**

25 **“(3) The county shall make all reasonable efforts to implement and**
26 **make the Clackamas Forestry Product Cooperative Project fully oper-**
27 **ational no later than June 1, 2017.**

28 **“SECTION 8. There is allocated, for the biennium beginning July**
29 **1, 2015, from the Administrative Services Economic Development**
30 **Fund, to Clackamas County, the amount of \$750,000 as a grant for the**

1 **purpose of developing, implementing and administering the Clackamas**
2 **Forestry Product Cooperative Project described in sections 1 to 6 of**
3 **this 2015 Act.**

4 **“SECTION 9. (1) Sections 1 to 6 of this 2015 Act are repealed Janu-**
5 **ary 2, ____.**

6 **“(2) Any activities under an agreement entered into as part of the**
7 **pilot program described in sections 1 to 6 of this 2015 Act must cease**
8 **on or before the repeal date established in subsection (1) of this sec-**
9 **tion.**

10 **“SECTION 10. This 2015 Act being necessary for the immediate**
11 **preservation of the public peace, health and safety, an emergency is**
12 **declared to exist, and this 2015 Act takes effect July 1, 2015.”.**

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